

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PETER DELVECCHIA, individually and)
as next friend of A.D., a Minor,) Case No.:
Plaintiffs,) 2:19-cv-01322-KJD-NJK
v.)
FRONTIER AIRLINES, INC.,)
SCOTT WARREN, and REX SHUPE,)
Defendants.)

ZOOM REMOTE VIDEOTAPED VIDEOCONFERENCE

DEPOSITION OF
CHRISTOPHER HIGGINS

12:57 P.M.

North Carolina

Thursday, June 17, 2021

Reported By: Marta J. Charles

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 Peter DelVecchia, and A.D.
 VIA ZOOM REMOTE VIDEOCONFERENCE

E X A M I N A T I O N I N D E X

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| No. 1 | Mr. Higgins' witness statement | 135 |

This is the Zoom remote videotaped videoconference deposition of Christopher Higgins, taken pursuant to Notice of the parties, before Marta J. Charles, Court Reporter and Notary Public, to the best of my ability to discern comments via Zoom transmission, on the 17th day of June, 2021, beginning at 12:57 p.m.
 The reading and signing of this transcript is waived.

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P R O C E E D I N G S

THE VIDEOGRAPHER: Thank you. We are now on the record. This begins videotape number one in the deposition of Christopher Higgins, in the matter of DelVecchia versus Frontier Airlines. Today is Thursday, June 17th, and the time is 12:57 p.m.

This deposition is being taken virtually at the request of Adler Murphy & McQuillen, LLP. The videographer is Kristen Spielkamp of Magna Legal Services, and the court reporter is Marta Charles.

Will counsel and all parties present please state their appearances and whom they represent.

MR. McKAY: I'm John McKay, and I represent the plaintiffs in the case.

MR. MARTIN: Matthew Martin of Adler Murphy & McQuillen in Chicago representing the defendants in this matter.

MR. TITOLO: Tim Titolo on behalf of the plaintiff, in Las Vegas.

THE WITNESS: Christopher Higgins, North Carolina, witness in the case.

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incident that occurred on Frontier Flight 2067 from Raleigh-Durham to Las Vegas on March 28th, 2019.

And I understand you were a passenger on that flight; is that correct?

A. That's correct.

Q. Have you ever sat for a deposition before, sir?

A. Yes, I have.

Q. Okay. About how many?

A. Maybe six.

Q. Okay.

A. Five or six.

Q. So you're probably roughly familiar with the format. You know, things are a little bit different now as we enter into a post-COVID world, so I'm just going to go over a few ground rules just designed to help things move kind of smoothly today.

So the first, as you can see, Marta is our court reporter. She is taking a record of everything that is said during this deposition today. So it's really important that only one of us speak at a given time. So if you could allow me the opportunity to finish a question, and then I'll do my best to allow you -- to give

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THE VIDEOGRAPHER: Will the court reporter please swear in the witness.

CHRISTOPHER HIGGINS, having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION BY MR. MARTIN:

Q. Mr. Higgins, can you state your full name for the record, please.

A. Christopher Higgins.

MR. MARTIN: Let the record reflect that this is the deposition of Christopher Higgins, taken pursuant to subpoena and set for today's date by agreement of the parties. This deposition shall be conducted in accordance with the Federal Rules of Civil Procedure and all applicable rules of the United States District Court for the District of Nevada.

Q. (By Mr. Martin) Mr. Higgins, as you know, my name is Matt Martin. I represent the defendants in this litigation matter, including Frontier Airlines, in a lawsuit brought by Plaintiff Peter DelVecchia and his son, who, for purposes of this matter, this whole proceeding, we're referring to as "A.D."

This litigation arises out of an

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you the chance to finish your answer just so we're not stepping over each other. Okay?

A. Okay.

Q. The second thing is, again, with the taking of the record, it's important that your answers be verbal. We do have this -- a videographer here. But just for the court reporter's sake, if you could avoid shrugs of the shoulders, and also things like uh-huh or uh-uh, that might be difficult to clarify. Okay?

A. Okay.

Q. If you don't understand any question I ask today, please let me know. I'm not trying to trick; just trying to get some basic, factual information today. I'm happy to clarify any question you don't understand. Okay?

A. Okay.

Q. If you do answer a question I ask, I'll assume you understood it. Is that fair?

A. Yes.

Q. Okay. And, finally, I'm just going to try to keep everything as streamlined as possible today. We certainly appreciate your time.

If you do -- or would like to take a break at any point, please just let us know.

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1 We'd be happy to do that. The only caveat is,
 2 if there's a question pending, whether it's
 3 myself or from Mr. McKay, we just ask that you
 4 answer that question before we break. Okay?
 5 A. Okay.
 6 Q. Okay. So we'll kind of just go over what I'm --
 7 what we're going to be doing today. I'll start
 8 by just collecting a little bit of background
 9 information on yourself, and then we'll move
 10 into what happened on flight -- Frontier 2067,
 11 which I may refer to as "the incident." Does
 12 that sound fair?
 13 A. Yes, it does.
 14 Q. Okay. Can you provide your date of birth,
 15 please?
 16 A. My date of birth is February 21st, 1968.
 17 Q. February 21st?
 18 A. Yes.
 19 Q. Same as my wife's. I'll never forget it,
 20 hopefully.
 21 A. Better not.
 22 Q. I know. And can you provide your current
 23 address?
 24 A. I reside at [REDACTED] in Wake
 25 Forest, North Carolina.

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1 Department.
 2 Q. And how long have you been with the Wake Forest
 3 Police Department?
 4 A. Three years.
 5 Q. And do you have a title with them?
 6 A. I'm currently assigned as a detective in their
 7 criminal investigation division.
 8 Q. And where did you work before Wake Forest PD?
 9 A. I worked for the University of North Carolina at
 10 Chapel Hill Police Department for two years.
 11 Q. Do you recall approximately the years you worked
 12 for UNC?
 13 A. I was -- I started employment there August 21st,
 14 2016, and I left there, I believe it was August
 15 13th, 2018.
 16 Q. What was the last year? 2000-and-what?
 17 A. '18.
 18 Q. And did you leave there to go work for the Wake
 19 Forest Police Department?
 20 A. Yes, I did.
 21 Q. And before you were at the UNC PD, where did you
 22 work?
 23 A. I worked for the New York City Police
 24 Department.
 25 Q. And how long did you work there?

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1 Q. And do you live there with anybody?
 2 A. I live there with my wife and my 15-year-old
 3 son.
 4 Q. And is your 15-year-old son your only child?
 5 A. Yes, he is.
 6 Q. Have you ever served in any branch of the
 7 military?
 8 A. No, I have not.
 9 Q. And what is your highest level of education?
 10 A. I have a bachelor's degree from St. John's
 11 University.
 12 Q. And is that the St. John's in New York?
 13 A. New York, yes.
 14 Q. And what year did you obtain that in?
 15 A. Criminal justice.
 16 Q. All right. So the degree was in criminal
 17 justice. Do you remember the year that you
 18 obtained it in?
 19 A. 1992.
 20 Q. Any other formal education or training beyond
 21 that?
 22 A. Just police department training and that sort of
 23 thing.
 24 Q. Who is your current employer, sir?
 25 A. I'm currently employed by the Wake Forest Police

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1 A. 25 years, six months, and five days.
 2 Q. But you weren't counting, were you?
 3 A. No, I was not.
 4 Q. And just doing some back-of-the-envelope math,
 5 is that about the time from when you graduated
 6 college until you moved to North Carolina?
 7 A. I was still in college at the time. The
 8 opportunity came up to be hired by them, I took
 9 it, and then I went back and finished my degree
 10 in piecemeal --
 11 Q. Okay.
 12 A. -- in the few years after that.
 13 Q. And did you have any certain job title or titles
 14 while you were with New York City Police
 15 Department?
 16 A. I was a police officer, then I was a detective
 17 for about five or six years, and then I was a
 18 sergeant for ten. And I retired as a sergeant.
 19 Q. Okay. And after you retired, did you then move
 20 down to North Carolina?
 21 A. The very next day.
 22 Q. Okay. Didn't waste any time, did you?
 23 A. No. My family had come down a few months
 24 before. We'd sold the house, and got my son
 25 enrolled in school down here. And I stayed for

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1 four or five months after we sold the house.
 2 Q. Okay. Talking about your current role with the
 3 Wake Forest Police Department, you said you're a
 4 detective in criminal investigations. Can you
 5 just provide a general overview of what you do
 6 in that role?
 7 A. All right. We -- we follow up with complaints
 8 that are left over for, investigation. A lot of
 9 complaints here in Wake Forest involve minor
 10 larceny, thefts, credit card fraud, occasional
 11 assaults, occasional burglaries and breaking-
 12 and-enterings, and that sort of thing.
 13 Q. As a byproduct of your profession, do you often
 14 encounter individuals that are in distress?
 15 A. Yes.
 16 Q. How often would you say that you encounter such
 17 individuals?
 18 A. On patrol here, it could be once a week. In
 19 general, in the current title that I'm at now,
 20 it comes around every so often we get a call-out
 21 where there's a victim of a serious assault. We
 22 haven't, knock on wood, we haven't had a
 23 shooting here in a while.
 24 But I just was recently dealing with a
 25 15-year-old girl who alleged a sexual assault.

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1 Marta, would you be able to read it back?
 2 (WHEREUPON, THE COURT REPORTER
 3 READ BACK THE QUESTION AS REQUESTED.)
 4 A. Yes.
 5 Q. And over the course of your experience, have you
 6 been in situations involving emergent threats to
 7 a person's safety?
 8 A. Yes.
 9 MR. McKAY: Same objection.
 10 Q. (By Mr. Martin) The answer is "yes"?
 11 A. Yes.
 12 Q. Have you ever worked in the airline industry,
 13 sir?
 14 A. No, I have not.
 15 Q. Do you have any family members or friends that
 16 work in the airline industry?
 17 A. No, I do not.
 18 Q. Do you have any affiliation with Frontier
 19 Airlines other than flying with them from time
 20 to time?
 21 A. No, I do not.
 22 Q. Do you have any medical training?
 23 A. Just basic CPR training, basic first aid, things
 24 that I learned with the various agencies I was
 25 employed with.

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1 And I was in downtown Raleigh earlier today with
 2 her family. And she was being interviewed by a
 3 psychologist and a doctor for that.
 4 So it comes up every so often.
 5 Q. Okay. So then, as -- it seems like you've been
 6 with a few different police forces, but for over
 7 30 years. Is that right?
 8 A. Yes.
 9 Q. And so as a result of that experience, would you
 10 say that you have a good history of dealing with
 11 removing threats to a person's safety?
 12 MR. McKAY: Objection to the form of
 13 the question.
 14 Q. (By Mr. Martin) So you can -- I forgot to say at
 15 the outset, from time to time, one of -- if I'm
 16 asking questions, Mr. McKay may make objections,
 17 and vice versa. Unless someone tells you
 18 otherwise, you can still answer the question,
 19 okay?
 20 A. Okay.
 21 Q. Do you need that question repeated again, or do
 22 you remember it?
 23 A. Can you just repeat it again word for word?
 24 Q. Sure.
 25 MR. MARTIN: Sure. I'll have --

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1 Q. Do you have a current CPR certification?
 2 A. Yes, I do.
 3 Q. Is that something that you're required to keep
 4 current as per your employer?
 5 A. Yes. They actually provided training earlier
 6 this year. It was a little refresher training.
 7 Q. As you understand -- I mean, do you have any
 8 relation to any of the parties in this
 9 litigation?
 10 A. No, I do not.
 11 Q. Outside of your time on Flight 2067, have you
 12 ever met either of the plaintiffs prior to the
 13 flight?
 14 A. No.
 15 Q. Have you met or spoke with either of them since
 16 Flight 2067?
 17 A. No.
 18 Q. Have you ever seen or spoken with any member you
 19 recall being on the flight crew of Flight 2067,
 20 except for your time on that flight?
 21 A. No.
 22 Q. Besides the statutory witness fee that my office
 23 mailed down to you, is any party compensating
 24 you for your time here today?
 25 A. No.

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1 Q. Have you ever spoken with Plaintiff's counsel in
2 this matter, Mr. McKay?
3 A. Yes.
4 Q. Do you recall when that was?
5 A. Possibly a year after the incident, maybe the
6 spring of 2020. I don't remember exact -- the
7 exact date.
8 Q. Do you recall how many conversations you had
9 with him?
10 A. One.
11 Q. Have you ever provided a written statement
12 regarding this matter?
13 A. Yes, I did.
14 Q. Who prepared that statement?
15 A. I believe it was either Mr. McKay, or his
16 private investigator who contacted me, also.
17 Q. Did you edit the statement at all?
18 A. I basically just provided them a statement.
19 They emailed me the written statement. I looked
20 it over, and it appeared to be accurate to what
21 I conveyed to McKay and the private
22 investigator.
23 Q. Did you then sign the statement?
24 A. Yes, I did.
25 Q. And did you send back the statement?

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1 A. I was in the 20th row, 20 D, maybe.
2 Q. 20 D, as in dog?
3 A. Yeah. 20 D, mm-hm, as in dog. Mm-hm.
4 Q. So if you're in the rear of the plane and
5 looking forward, you would've been on the right
6 side of the airplane, correct?
7 A. That's correct. And it was an aisle seat.
8 Q. And on the aisle seat. Okay. Thank you.
9 Prior to getting on the airplane, do
10 you recall having -- or do you have any
11 recollection of seeing either of the individuals
12 that you now know as the plaintiffs in this
13 matter?
14 A. No.
15 Q. Do you recall seeing them as you boarded the
16 aircraft?
17 A. No.
18 Q. So you're aware that we're here today because of
19 a series of events that happened on Flight 2067,
20 correct?
21 A. That's correct.
22 Q. And those events occurred while the plane was
23 traveling in the air, correct?
24 A. That's correct.
25 Q. Do you recall how you passed the time on the

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1 A. Yes, I did.
2 Q. Do you recall who you sent it to?
3 A. I believe I sent it to Mr. McKay, although I'm
4 not 100 percent sure of that.
5 Q. Would it be fair to say -- I guess, let me start
6 over.
7 Do you think that the statement, as
8 you recall it, contains every single one of your
9 observations from Flight 2067?
10 A. It contains all the observations from that day
11 and that incident that -- that I can recall,
12 yes.
13 Q. Okay. And we'll obviously go over all of your
14 recollections soon. And I might refer to this
15 statement from time to time as well.
16 Do you recall approximately what time
17 Flight 2067 departed on March 28th, 2019?
18 A. It may have been a 7:30 flight, 7:00. I know I
19 had to work that day, and I left early.
20 Q. Is that p.m. or a.m.?
21 A. Oh, I'm sorry, p.m.
22 Q. Were you traveling alone on that trip?
23 A. Yes, I was.
24 Q. And when you boarded the aircraft, do you recall
25 what seat you were sitting in initially?

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1 flight before what I've called "the incident"?
2 A. I was probably just looking at my -- the news on
3 my phone, perusing that, listening to some
4 music, maybe.
5 Q. Do you recall if you took a nap at any point?
6 A. I closed my eyes at one point.
7 Q. Were you listening to music at all; do you
8 recall?
9 A. Yes. Mm-hm.
10 Q. Now, at a certain point in the flight, were you
11 approached by -- actually, let me strike that.
12 How many flight attendants do you
13 recall there being on this particular flight?
14 A. Three. Three, maybe four.
15 Q. Do you recall the genders of those flight
16 attendants?
17 A. One was male, three were female. There was
18 four.
19 Q. Do you recall anything about the physical
20 characteristics of the male flight attendant?
21 A. He was a black male, five-foot-eight to five-
22 foot-ten, medium build, probably in his 30s.
23 Q. Do you recall having any interaction with him
24 from the time you boarded until the time the
25 plane took off?

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1 A. No.
 2 Q. And do you recall any of the physical
 3 characteristics of any of the other three flight
 4 attendants besides the male flight attendant?
 5 A. The other three flight attendants were female.
 6 Two were white females. One -- I don't recall
 7 the third one. And I remember the two in the
 8 back of the plane were white females.
 9 Q. Do you recall having any interactions with any
 10 of the female flight attendants from the time
 11 that you boarded the aircraft until the time it
 12 took off?
 13 A. No, nothing personal. They were just going
 14 around the plane assisting passengers with
 15 putting bags away and that sort of thing. But,
 16 no, I didn't have any interactions with either
 17 of them.
 18 Q. Okay. At a certain point during the flight,
 19 were you approached by one of the flight
 20 attendants?
 21 A. Yes, I was.
 22 Q. And which one was that?
 23 A. It was the male flight attendant.
 24 Q. And can you describe that interaction?
 25 A. Well, I was sitting in my seat. The -- the

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1 flight to Las Vegas?
 2 A. There were no rowdy passengers on the flight.
 3 It was just a loud -- it was a group of people
 4 traveling together out to Las Vegas, and they
 5 were having a bit of a good time. And they were
 6 seated behind us to the left -- or seated behind
 7 me to the left.
 8 Q. Okay. Did you witness anything that you would
 9 characterize as out of the ordinary in any of
 10 the rows in front of you --
 11 A. No.
 12 Q. -- at that point?
 13 A. No, I didn't observe anything unusual or out of
 14 the ordinary in front of me.
 15 Q. Do you recall how far into the flight it was
 16 when that male flight attendant approached you?
 17 A. Maybe three hours, give or take.
 18 Q. Had you ever taken this flight from Raleigh-
 19 Durham to Las Vegas before?
 20 A. No. I'd been to Vegas two other times, but not
 21 from the Raleigh-Durham airport, no.
 22 Q. Do you recall approximately how long Flight 2067
 23 was on March 28th, 2019?
 24 A. Close to five hours.
 25 Q. And you said it was approximately three hours

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1 lights in the interior of the plane had been
 2 dimmed. The plane had quieted down a little
 3 bit. There was a little bit of a party going on
 4 behind me, there was people traveling, they had
 5 quieted down.
 6 I looked up, and there was a flight
 7 attendant. He's standing over me, and he leans
 8 down and says, "Sir, we may need your assistance
 9 in separating two passengers. Would you be
 10 willing to move your seat?" He said something
 11 to that effect, and I'm paraphrasing. It's not
 12 exactly maybe what he said. But he said that
 13 there was a problem, "Would you be willing to
 14 relocate your seat?" And I said, "Sure. Okay."
 15 And then he left.
 16 Q. So that interaction, just for purposes of
 17 hopefully making things easier for us, I'm going
 18 to refer to that as kind of the start of the
 19 incident. Is that fair?
 20 A. That's fair, yes.
 21 Q. Okay. So prior to that start point, did you
 22 notice anything that you would characterize as
 23 unusual on the flight?
 24 A. No.
 25 Q. Were there any other rowdy passengers on the

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1 into the flight at the time the flight attendant
 2 approached you?
 3 A. Yes.
 4 Q. Can you describe, as you recall, the demeanor of
 5 the flight attendant that approached you at the
 6 time he approached you?
 7 A. Nothing -- he was -- he was just asking me would
 8 I be willing to move my seat, and that there was
 9 a situation with two passengers on the plane.
 10 He seemed concerned.
 11 But it wasn't like he was panicked or
 12 anything like that. He was very -- he was
 13 actually very calm.
 14 (Reporter clarification.)
 15 A. He was just expressing that there was a concern
 16 on the plane, but he wasn't panicked, and he
 17 wasn't in any kind of alarm or distress about
 18 it.
 19 Q. At -- at that point, did you have any
 20 understanding as to why passengers would need to
 21 be separated?
 22 A. He didn't convey that information to me.
 23 Q. Did he convey who the passengers were that
 24 needed to be separated?
 25 A. He did not.

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1 Q. At that point, did he say anything about the
2 races of the individuals that needed to be
3 separated?

4 A. No, he did not.

5 Q. About how long would you say that initial
6 conversation with the male flight attendant, how
7 long did that take?

8 A. Thirty seconds.

9 Q. And then what happened next?

10 A. Well, he left. I think he went towards the
11 front of the plane, and he was there for a few
12 minutes. And then I see him walking back, and
13 then I see one of the flight crew come out of
14 the cockpit area, and he's standing at the front
15 of the plane.

16 And then this flight -- the flight
17 attendant in question walks to maybe four or
18 five rows -- well, five or six rows in front of
19 mine, and he's standing there. And it looks
20 like he was maybe communicating somehow with the
21 flight attendants that were in the rear of the
22 plane. I'm not sure. I see him motioning
23 towards the back maybe, looking towards the
24 back. And he's standing in the aisle, again,
25 about maybe five or six rows in front of me.

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1 few rows ahead of you, correct?

2 A. Correct.

3 Q. And do you recall how many individuals from the
4 flight crew, including potentially individuals
5 from the cockpit, you saw in the front of the
6 aircraft?

7 A. With the flight attendant who was five or six
8 rows in front of me, the only one I recall
9 seeing was a -- it was one of the members of the
10 flight crew. I don't know if he was the pilot
11 or the copilot, but he was standing towards --
12 only at the front of the plane.

13 Q. Was the male flight attendant the only one that
14 came back to the area that was a few rows ahead
15 of you?

16 A. I don't recall him coming back at all. I
17 remember him standing a distance away towards
18 the front of the plane near the cockpit. I
19 don't remember him walking back.

20 Q. You're talking about the person who came from
21 the cockpit?

22 A. Yes, that's who I'm referring to.

23 Q. Okay. And then the male flight attendant, the
24 one that had approached you earlier, was he the
25 one that walked back to the spot that was a few

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1 Then -- do you want me to go on, then,
2 or -- exactly what I recall seeing?

3 Q. Yeah. Let me -- I guess let me just stop you
4 there so I can just ask a couple quick
5 questions.

6 A. Sure.

7 Q. That's very helpful. Thank you.

8 You mentioned that you saw him look to
9 the back of the aircraft. So do you have --

10 A. He was looking at the back of the airplane, yes.

11 Q. Do you -- do you recall -- in terms of the
12 flight crew, the personnel, do you recall how
13 many were in the back of the plane at that time
14 that he looked back there?

15 A. I think I looked over my left shoulder, and I
16 believe I saw a female flight attendant several
17 rows behind me standing there as well.

18 Q. Do you recall approximately how many rows were
19 aft of you in the airplane?

20 A. I think maybe there were 30 rows on the plane.
21 I'm not sure. But I really -- I don't know how
22 many rows were on that actual plane. But it was
23 -- I was towards the back, that I recall.

24 Q. Okay. And you mentioned you -- you saw the male
25 flight attendant come back to a spot that was a

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1 rows ahead of you?

2 A. That's correct.

3 Q. And was he alone at the time?

4 A. Yes, he was.

5 Q. Okay.

6 MR. McKAY: Matt, excuse me. He keeps
7 saying "five or six." You keep saying "few." I
8 have to object to "few." The testimony is "five
9 or six."

10 MR. MARTIN: Sure.

11 Q. (By Mr. Martin) So what happened next, Mr.
12 Higgins?

13 A. Well, as he's standing there, I figured, this
14 must be what is going to go down right now. He
15 appears to kind of bend over a little bit, and
16 he taps -- it looks like he taps on the shoulder
17 of the person sitting on the aisle seat, okay?
18 So that individual gets up, and he was a white
19 male. He gets up and he moves to the back -- he
20 moves forward, so he moves past the flight
21 attendant.

22 I then see him lean over again, and it
23 appears he wakes up the passenger sitting in the
24 middle seat. And then that passenger gets up.
25 And then he walks past the flight attendant.

1 Then I see him leaning further over to the seat
2 towards the window, and it appears that he wakes
3 up an individual who's sitting in the window
4 seat, and then he gets up.

5 And then he escorts him out, and he
6 walks in front of the flight attendant towards
7 the back of the plane walking towards where I
8 am. And as he passes, then he says, "You can
9 come with me now."

10 Q. Okay. Let me just stop you right there a quick
11 sec just so I make sure I can understand the --
12 the details of what happened five or six rows
13 ahead of you, as you say.

14 A. Sure.

15 Q. So the flight attendant was approaching
16 passengers who were on the same side of the
17 aircraft as you, as you're looking forward,
18 correct?

19 A. Yes. They're on the right -- if you're looking
20 forward, we're on the right side of the plane.

21 Q. And so the first person that he approached was
22 the person who was sitting in the aisle seat; is
23 that correct?

24 A. That's correct.

25 Q. As you were looking forward, do you recall how

1 his shoulder, or he leaned down to say something
2 to him. He was, like -- you know, I -- I
3 couldn't hear. With the noise in the aircraft
4 and the engines, I couldn't hear what he was
5 saying to him.

6 But I just saw that he kind of leaned
7 over, looked like he may have said something to
8 him and/or maybe tapped his shoulder or
9 something to that effect, and then that
10 individual got up.

11 Q. When the flight attendant began that process, do
12 you have any recollection of your observance or
13 appreciation for what his demeanor was at that
14 time?

15 A. Of the flight attendant?

16 Q. Correct.

17 A. It just seemed like he was -- he wasn't, like,
18 alarmed or anything like that. He was just --
19 seemed like he just kind of leaned over, spoke
20 to him or said -- or tapped him on the shoulder,
21 and he got up.

22 It wasn't like there was any kind of,
23 like, sudden movements, or he didn't yell, or
24 anything like that.

25 Q. Did you perceive anything you would classify as

1 much of those individuals' bodies you were able
2 to see?

3 A. Well, the seats on this plane -- this is --
4 again, this is the first time I flew a Frontier
5 flight. You can basically see the back of the
6 head, almost. It depends on how tall you are.
7 Some people, you can see more of their head;
8 some people, you can see less of their head.

9 You can -- with the individual seated
10 on the aisle seat, you can see the top of his
11 head. He was about the same height, maybe a
12 little taller than the flight attendant.

13 Q. And do you recall anything else about his
14 physical characteristics?

15 A. He was a medium build, five-ten, maybe a little
16 taller, maybe close to 6 feet. If I recall
17 correctly, he had brown hair, and he was a male,
18 white.

19 Q. And, again, how do you recall the flight
20 attendant alerting him when he approached that
21 row?

22 A. It appeared that he just kind of leaned over a
23 little bit forward. He may have braced his body
24 weight on the side of the chair, or side of the
25 seat. And it looked like he just either touched

1 hostility from him at that moment?

2 A. No.

3 MR. McKAY: Objection to the form of
4 the question.

5 Q. (By Mr. Martin) The answer is "no," sir?

6 A. "No."

7 Q. And then you -- so after the gentleman that was
8 seated in the aisle seat got up, can you just
9 describe again how you saw the flight attendant
10 interact with the individual who was sitting in
11 the middle seat of that row?

12 A. It was -- it was almost like the same kind of
13 body motion. It looked like he leaned in a
14 little bit into the aisle. He may have put his
15 hands on either the aisle seat or the seat that
16 individual was sitting in, the middle seat, may
17 have said something, may have tapped him on the
18 shoulder. I don't know. And then that
19 individual got up from the middle seat and then
20 walked out into the aisle.

21 Q. Okay. Let me just stop you right there. In the
22 time between the aisle-seat passenger got up,
23 and then the time that that middle-seat
24 passenger got up, did you see anything that you
25 would characterize as the flight attendant

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1 striking that passenger in the middle seat?
 2 A. No.
 3 MR. McKAY: Objection to the form of
 4 the question.
 5 Q. (By Mr. Martin) And the answer is "no," sir?
 6 MR. McKAY: The court reporter is
 7 motioning. Sorry.
 8 THE COURT REPORTER: The answer?
 9 Q. (By Mr. Martin) Was the answer to that question
 10 "no," sir?
 11 A. The answer is "no." Yes.
 12 Q. Can you describe the physical characteristics of
 13 that individual in the middle seat?
 14 A. He was a male, white, five-foot-eight to five-
 15 foot-ten, salt-and-pepper hair, balding, wearing
 16 glasses.
 17 Q. Can I ask you just, you know, COVID logistics
 18 being what they are, you know, typically, we'd
 19 be all in a room together. Mr. Higgins, can you
 20 just tell me what you're seeing on your screen?
 21 A. I have the court reporter up to my upper left.
 22 I have Mr. McKay on the corner of my screen on
 23 the upper right. You're down at my lower left.
 24 The individual who was on the plane is sitting
 25 -- he's right there in the middle. And then

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1 him prior to that moment?
 2 A. I never saw that individual before.
 3 Q. And so the passenger in the aisle seat got up,
 4 and did you say he moved towards the front of
 5 the plane?
 6 A. He moved -- I would say that the flight
 7 attendant kind of bladed his body, because the
 8 aisle is kind of narrow, and the passenger that
 9 was in the aisle seat kind of moved towards --
 10 past him towards the aisles in front of where
 11 they were seated. So he was now at his back.
 12 Q. Okay. So the aisle passenger was forward of the
 13 flight attendant, correct?
 14 A. Yes. He went towards the front of the plane.
 15 Q. And then where did the passenger in the middle
 16 seat go once he got up?
 17 A. He also went in the same direction towards the
 18 front of the plane.
 19 Q. So after the two of them exited that row, they
 20 were both forward of the flight attendant?
 21 A. That's correct.
 22 Q. Okay. And during that time, did you hear either
 23 of those two passengers say anything?
 24 A. No, I did not.
 25 Q. And then can you describe again what the flight

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1 there's somebody named Tim whose screen is
 2 blank, to my lower right.
 3 Q. So the individual -- do you recognize on this
 4 video right now the individual who was sitting
 5 in that middle seat in that row?
 6 A. Yes. He's right in the middle screen, like,
 7 right below where I am, and right to -- it would
 8 be to your -- to your left --
 9 Q. Okay.
 10 A. -- on the screen.
 11 Q. Going back to the -- the incident, at the point
 12 when the gentleman who was in the middle seat
 13 got up, did you -- could you hear anything at
 14 that point?
 15 A. No.
 16 Q. Could you hear any shouting?
 17 A. There was no shouting.
 18 Q. Did you hear anyone even raise a voice?
 19 A. No.
 20 Q. Did you have any recollection or appreciation as
 21 to what the demeanor of the gentleman in the
 22 middle seat was at that time?
 23 A. He appeared to be compliant.
 24 Q. When that gentleman in the middle seat got up,
 25 did it ring any bells in terms of having seen

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1 attendant did next to the final passenger in the
 2 row?
 3 A. He appeared to either motion to the passenger
 4 that was in the seat near the window, he may
 5 have said something to him. It looked like he
 6 was leaning into the aisle, that I recall.
 7 That passenger stood up, and then he
 8 walked out of the aisle in front of the flight
 9 attendant, and then they walked towards my
 10 direction, towards the back of the plane.
 11 Q. Can you describe the physical traits or
 12 characteristics of that third individual?
 13 A. He was a male, black, five-foot-six, five-foot-
 14 seven, thin. He appeared to be slightly
 15 disheveled. And I recall that he wasn't wearing
 16 any shoes.
 17 Q. Do you recognize that individual on one of the
 18 video screens here today?
 19 A. He may be sitting next to Mr. DelVecchia on the
 20 screen here. I can't tell, though --
 21 Q. Okay.
 22 A. -- because of the -- the lighting.
 23 Q. At that time when -- if I referred to him as --
 24 I'm just going to use the term that was in your
 25 witness statement, "the black youth." If I use

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1 that term, will you understand who I'm talking
 2 about?
 3 A. Yes.
 4 Q. Okay. At the time that the male flight
 5 attendants had the black youth exit that row,
 6 did you hear anything of what was said at that
 7 point?
 8 A. No, I did not.
 9 Q. Did you ever see, in the time between the
 10 passenger in the middle seat exit the row and
 11 the time that the black youth exited the row,
 12 did you ever see that male flight attendant
 13 touch the black youth?
 14 A. No, I did not.
 15 Q. And do you recall hearing the black youth say
 16 anything as he exited the row?
 17 A. I did not hear him saying anything.
 18 Q. Did you have any appreciation as you saw him --
 19 as you saw the black youth exit the row for what
 20 his demeanor was?
 21 A. He appeared to be calm, and he complied with the
 22 flight -- what the flight attendant asked him to
 23 do, which I didn't hear.
 24 Q. So you didn't hear anything of the interaction
 25 that occurred in that row; is that correct?

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1 intoxicated, something of that nature. That's
 2 what I was anticipating.
 3 Q. When you saw the individuals who were in the
 4 middle seat and the window seat of that row
 5 exit, did it ever cross your mind to think that
 6 the incident was racially motivated?
 7 MR. McKAY: Objection to the form of
 8 the question.
 9 Q. (By Mr. Martin) You --
 10 A. No.
 11 Q. -- can answer. So what happened after the black
 12 youth exited that row that was five or six rows
 13 ahead of you?
 14 A. Well, he was walking in front of the male flight
 15 attendant who was escorting him to the back of
 16 the plane. They passed my row, and then he
 17 said, "Sir, you can come with me now."
 18 So I grabbed my belongings, which
 19 consisted of a backpack that was under the seat,
 20 got up, walked behind him towards the back of
 21 the plane to the last aisle on the same side of
 22 the plane, which would be the right side of the
 23 plane.
 24 That aisle was empty; there were no --
 25 there were no persons sitting in that aisle. I

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1 A. I did not.
 2 Q. And were you looking at the -- that interaction
 3 the entire time it occurred?
 4 A. Yes, I was.
 5 Q. So you don't ever recall looking away at all?
 6 A. I -- no.
 7 Q. And would you say that you were paying attention
 8 to it because you had been alerted to something
 9 potentially occurring on the airplane?
 10 A. That's correct.
 11 Q. Being a law enforcement professional, do you
 12 have any recollection of what you were thinking
 13 in the time between when that male flight
 14 attendant first alerted you to a potential
 15 separation of passengers until the time the
 16 incident occurred?
 17 MR. McKAY: Objection to the form of
 18 the question.
 19 Q. (By Mr. Martin) You can go ahead and answer.
 20 A. Well, just from my experience -- and this never
 21 happened to me on any flight I've ever taken --
 22 I figured that there was going to be some sort
 23 of issue, some sort of problem between two
 24 passengers. I thought maybe that there was
 25 going to be a fight, that somebody was

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1 saw him make a motion, or point. I didn't
 2 exactly hear what he was saying to that
 3 passenger to -- he directed him to the farthest
 4 seat, which would be the window seat, and he
 5 said, "Sir, you can sit right here in the
 6 aisle."
 7 And so I sat down in the aisle seat at
 8 the back of the plane. And that was it -- I
 9 mean, that was pretty much it.
 10 Q. Okay. Let me -- let me stop you right there
 11 just to break that down, too. You said that as
 12 the black youth and the flight attendant walked
 13 past you towards the rear of the aircraft, the
 14 flight attendant said something to the effect
 15 of, "Sir, come with me now," is that correct?
 16 A. I'm paraphrasing. But he said something, "Sir,
 17 you can come with me now," or "You can come with
 18 me," something to that effect.
 19 Q. Do you have any recollection as to what his tone
 20 was when he said that?
 21 A. It was -- it was pretty much, casual. It
 22 wasn't, like -- you know, it was like, "Hey, can
 23 you can come -- you can come with me now." It
 24 wasn't in any distress or anything like that.
 25 Q. Do you, whether through your job, or just life

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1 experiences, have a lot of experience dealing
2 with angry people?

3 A. Yes.

4 MR. MARTIN: Do you want to get that
5 on the record, John?

6 MR. McKAY: Objection to the form of
7 the question. Thank you, Matt.

8 MR. MARTIN: You're welcome, John.

9 Q. (By Mr. Martin) Based on those experiences,
10 would you classify that male flight attendant as
11 angry at the time?

12 A. No.

13 Q. And you said you were traveling just with one --
14 backpack, was it, you said?

15 A. Yes. I had one backpack, and I had checked
16 luggage as well --

17 Q. So you took that backpack --

18 A. -- earlier.

19 Q. -- with you to the back of aircraft, correct?

20 A. Yes.

21 Q. Did anyone else besides the three of you at that
22 time walk back to the back of the aircraft?

23 A. No. There was two flight attendants at the rear
24 of the plane. That, I remember.

25 Q. And I -- and just from your testimony about the

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1 flight attendants, those are two -- two of the
2 female flight attendants?

3 A. That's correct.

4 Q. When you got to that row in the back of the
5 aircraft -- I guess, first let me ask you: Do
6 you recall the row number at this time?

7 A. I do not.

8 Q. Do you recall if it was the very last row of the
9 aircraft?

10 A. It was the very last row.

11 Q. Did the two flight attendants that were at the
12 back of the aircraft, did they say anything to
13 you once you got back there?

14 A. Not initially, no.

15 Q. And when you got to that last row, you said you
16 were placed in the aisle seat, correct?

17 A. That's correct.

18 Q. Which would've been D, as in dog?

19 A. Yes.

20 Q. And the black youth was placed in the seat next
21 to the window; is that correct?

22 A. That's correct.

23 Q. Was there anybody sitting in the middle seat of
24 that row?

25 A. That seat was vacant.

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1 Q. Did that seat remain vacant for the rest of the
2 flight?

3 A. Yes, it did.

4 Q. Do you recall anyone ever coming to sit in that
5 middle seat at any point between when you sat in
6 the aisle seat until the plane landed?

7 A. No one came and sat in that seat for the
8 remainder of the flight.

9 Q. When you got to the back of the aircraft and sat
10 in the last row, in seat D, were you given any
11 instructions by any of the flight attendants?

12 A. No. They only asked me if I wanted anything.
13 If I wanted something to drink, or a snack, or
14 something like that, which I declined.

15 Q. Do you recall any instructions any of the flight
16 attendants gave the black youth from the time
17 that you got to that last row until the time the
18 airplane landed?

19 A. I believe one of them came over and asked if he
20 needed anything, if he wanted any juice, if he
21 wanted a soda, if he wanted any snacks. And I
22 believe that they got him something to drink at
23 some point, and maybe a bag of pretzels or
24 whatever snack items they were giving out on the
25 flight. I don't remember what they were giving

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1 out, though.

2 Q. Do you recall which flight attendant that was?

3 A. It was one of the ones that was at the back. I
4 don't recall exactly who. And I didn't get her
5 name or anything like that.

6 Q. But you recall it was one of the females?

7 A. Yes.

8 Q. Do you recall the demeanor of that female flight
9 attendant in her interactions with the black
10 youth?

11 A. Her demeanor was fine. It wasn't any alarm or
12 anything like that, or -- it was just, they were
13 asking him if he wanted anything at the back of
14 the plane. You know, they just asked him if he
15 wanted anything to eat or drink or anything like
16 that.

17 Q. Do you recall if any of them asked if he needed
18 to use the restroom at any time that you were in
19 the back of the aircraft?

20 A. I believe they did. I believe maybe they got
21 him a pillow, too, but I'm not sure about that.

22 Q. Do you recall if he ever did use the restroom
23 while he was back there?

24 A. I don't recall him using the restroom, no.

25 Q. Do you recall any instructions or anything that

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1 was said by any of the flight attendants to the
 2 black youth from the time you got to the back of
 3 the aircraft until the flight landed?
 4 A. No. Their interaction with him was only if they
 5 -- you know, they were asking him periodically
 6 if he needed anything. That was it.
 7 Q. Do you recall anyone ever telling him he
 8 couldn't go anywhere on the aircraft?
 9 A. No.
 10 MR. McKAY: Objection to the form of
 11 the question.
 12 Q. (By Mr. Martin) The answer is "no," sir?
 13 A. "No."
 14 Q. And this whole time, the aircraft was in flight,
 15 correct?
 16 A. That's correct.
 17 Q. During the time that you were in that last row
 18 in seat D, did the black youth behave in any way
 19 that made you think that he was suffering?
 20 MR. McKAY: Objection to the form of
 21 the question.
 22 A. No.
 23 Q. Did you perceive him exhibiting any signs that
 24 he was in distress?
 25 MR. McKAY: Objection to the form of

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1 come back towards our direction to the back of
 2 the plane.
 3 Q. And do you recall where he came to?
 4 A. The male flight attendant who moved the black
 5 youth to the back of the plane walked up to him
 6 a few rows ahead from where we were seated. I
 7 couldn't exactly hear what was going on, the
 8 conversation between the two.
 9 I remember the male saying, "I just
 10 want to see if he's all right. That's my son."
 11 Something to that effect. Again, I'm
 12 paraphrasing. I don't exactly remember what he
 13 was saying, but he was expressing some -- some
 14 concern.
 15 And he asked why. I remember hearing
 16 the word "why." "Why did he get moved?" The
 17 flight attendant -- again, because his back was
 18 to me, the engines, the noise in the interior of
 19 the cabin, I couldn't exactly hear the exact
 20 conversation between the two.
 21 But the male -- I remember hearing the
 22 word "son." I remember hearing the word, "Why
 23 was he moved?" And "I just need to -- I just
 24 need to talk to him for a minute." Again, those
 25 aren't the exact words. But he obviously

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1 the question.
 2 A. No.
 3 Q. Did you ever hear him cry?
 4 A. No.
 5 Q. Did you ever hear him speak?
 6 A. No.
 7 Q. Did he ever indicate that he wanted to leave his
 8 seat?
 9 A. No.
 10 Q. Did you ever hear anyone from the flight crew
 11 say that he could not move from that seat?
 12 MR. McKAY: Objection to the form of
 13 the question.
 14 A. No.
 15 Q. I think you testified you don't recall any of
 16 the flight attendants coming and sitting next to
 17 him during the remainder of the flight; is that
 18 correct?
 19 A. That's correct.
 20 Q. Did the passenger that you saw in that middle
 21 seat, during the separation, did that passenger
 22 ever come to the back of the aircraft after you
 23 moved seats?
 24 A. Shortly after we got to the last row of the
 25 plane, he did get up from his seat and he did

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1 appeared to be very concerned of why he was
 2 moved to the back of the plane.
 3 Q. Was there any shouting during that interaction?
 4 A. There was no shouting.
 5 Q. Could you hear anyone even raise a voice during
 6 that conversation?
 7 A. No.
 8 MR. McKAY: Objection to the form of
 9 the question.
 10 Q. (By Mr. Martin) Was the answer "no," sir?
 11 A. Yeah. The answer's "no."
 12 Q. Okay. Do you recall, was the older male
 13 passenger allowed to speak to the black youth in
 14 your row?
 15 A. Yes.
 16 Q. Do you recall anything he said?
 17 A. Again, he was about a row or two -- he may have
 18 been at the row right in front of us. But,
 19 again, the flight attendant had been blocking
 20 the aisle, okay, and he was just trying to
 21 convey to the black youth, "Everything's going
 22 to be okay." He referred to him in an -- in an
 23 affectionate term. He was calling him "honey."
 24 He said, "Honey, everything's going to be fine.
 25 Everything's going to be fine, honey."

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1 Everything's going to be okay." "That's my
2 son."

3 He obviously was very upset. Well, he
4 looked -- appeared to be upset. But, again, he
5 was compliant with the -- I remember the flight
6 attendant said, "Okay," after about maybe a
7 minute, minute and a half of this, he said, "You
8 have to go back to your seat." And he was
9 compliant. I mean, he turned around and he went
10 back.

11 There wasn't any shouting. There was
12 no argument between the flight attendant and
13 this individual. And that was pretty much it.

14 Q. Do you have any recollection of the demeanor of
15 the flight attendant during this conversation?

16 A. He was just saying, you know, "okay," you know,
17 he let Mr. DeVecchia talk to the individual
18 sitting in the seat next to the window. He was
19 saying a few things. "Everything's going to be
20 okay. This will" -- something, maybe -- "This
21 will be straightened out when we land,"
22 something along those lines. I don't remember
23 exactly what he was saying.

24 But he didn't raise his voice. The
25 flight attendant didn't raise his voice. After,

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1 last row in seat D, if you ever got up and left
2 your seat for any reason?

3 A. I did not.

4 Q. So as you recall, from the time that you were
5 taken and sat down in the last row in seat D
6 until you got up to leave the plane, you were in
7 that seat the whole time?

8 A. Yes, I was.

9 Q. And you don't recall anyone coming and sitting
10 in the seat next to you at any point, correct?

11 A. Again, that seat remained vacant for the -- for
12 the rest of the flight.

13 Q. And you said that the time that the passenger in
14 the middle seat came back, that was the only
15 time that he came to the back of the aircraft?

16 A. Yes.

17 Q. Do you recall, from the time that you sat down
18 in the last row, how much time there was left in
19 the flight?

20 A. Approximately two hours, maybe a little less.

21 Q. Do you recall how you passed that time?

22 A. I was still -- you know, I -- didn't -- I wasn't
23 listening to any kind of music. I wasn't
24 looking at my phone. Again, I really didn't --
25 I wasn't privy to what exactly occurred at that

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1 again, maybe a minute, maybe a minute and a
2 half, Mr. DeVecchia went back to his seat.

3 Q. At that time, did you have any understanding of
4 why they had been separated?

5 A. No.

6 Q. Did you ever try to speak with the black youth?

7 A. No.

8 Q. Were you ever told that you couldn't talk to
9 him?

10 A. No.

11 Q. Did you ever see the male flight attendant touch
12 the black youth while you were in the last row
13 of the aircraft?

14 A. No.

15 Q. Did you ever see him get close enough to the
16 black youth that he could have touched him?

17 A. No.

18 Q. Do you recall anything he specifically said to
19 the black youth?

20 A. He came by once, maybe twice, and asked if he
21 was okay. And that was it.

22 Q. During those times, did he ask if he was okay
23 from the aisle?

24 A. From the aisle, yes.

25 Q. Do you recall if, while you were sitting in the

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1 point, what was going on.

2 And, again, just from my experience, I
3 was anticipating that there may have been a
4 problem later on in the flight, that the flight
5 crew may need some assistance with. So I just
6 kind of -- you know, I kind of just sat there
7 hanging out a bit for the remainder of the
8 flight. Just --

9 Q. Did you --

10 A. -- paying attention to my surroundings and what
11 was going on.

12 Q. Did you fall asleep at any point?

13 A. No, I did not.

14 Q. So you were awake and alert the whole time that
15 you were in the last row until you left the
16 aircraft; is that correct?

17 A. That's correct.

18 MR. McKAY: Objection to the form of
19 the question.

20 Q. (By Mr. Martin) Do you recall what happened --
21 I guess, let me strike that.

22 When the aircraft landed, do you
23 recall seeing the passenger that was in that
24 middle seat exit the aircraft?

25 A. Yes.

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1 Q. And what do -- and what do you recall?
 2 A. Well, again, you know, the plane lands in Las
 3 Vegas. We're in the last row. I could see, you
 4 know, people getting up, retrieving their bags
 5 from the overhead compartments. I couldn't see
 6 him until the plane had emptied out towards the
 7 front, but I remember him exiting the plane.
 8 Like, he didn't make -- he didn't come to the
 9 back of the plane, if that's what you're asking.
 10 He didn't stay on the plane. Just when
 11 everybody was slotted to get off the plane, per
 12 row, he had gotten off the plane with everybody
 13 else.
 14 Q. Do you recall -- I know you mentioned earlier, I
 15 believe, that the black youth didn't have shoes
 16 on, correct?
 17 A. Yes. He didn't have any shoes on, that I
 18 recall.
 19 Q. Do you recall anything else about what he was
 20 wearing?
 21 A. He may have been wearing sweatpants or very
 22 loose-fitting jeans. It looked like he may have
 23 been wearing a sweater or sweatshirt. I don't
 24 remember what color.
 25 Q. Do you recall at what point in the deboarding

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1 A. Well, what occurred, as the plane had emptied
 2 out, two uniformed -- I don't know if they were
 3 the Airport Authority police from Las Vegas --
 4 there were -- two Las Vegas metro police
 5 officers were getting on the plane as I was
 6 getting off. So maybe I was midsection of the
 7 plane when I saw them walk on. And they were
 8 wear -- you know, they wear -- they wear, like,
 9 polo shirts that are kind of yellow and gold. I
 10 think their color scheme is gold and black. So
 11 they were wearing black tact pants. They were
 12 obvious police officers. They were getting on
 13 the plane.
 14 I remember seeing one of them kind of
 15 talk with the copilot, or it may have been the
 16 pilot, I'm not sure. But he was speaking with
 17 one of the members -- one of the members of the
 18 flight crew towards the front of the plane.
 19 And I walked off the plane. I didn't
 20 have any interaction with them. I didn't say
 21 anything to them. I merely walked off the
 22 plane.
 23 Q. When you were -- if you recall, did you ever
 24 tell anyone on the aircraft that you were a
 25 member of law enforcement?

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1 process that you exited the aircraft?
 2 A. I was one of the -- I was the last person off
 3 the plane, last passenger off the plane.
 4 Q. The very last one?
 5 A. Well, with the exception of the black youth who
 6 was seated -- seated at the window seat, I was
 7 the last passenger off the plane.
 8 Q. So you never saw -- when the plane landed, you
 9 didn't see the male in the middle seat come back
 10 to the back of the aircraft at all; is that
 11 correct?
 12 A. He never -- no, he did not come to the back of
 13 the plane. He exited with everybody else when
 14 that aisle was allowed to get up and -- off the
 15 plane.
 16 Q. So you exited second to last, I believe you
 17 said, of the passengers?
 18 A. I was the last passenger off the plane.
 19 Q. All right. So was the black youth ahead of you?
 20 A. No, no. I'm sorry. Then I was the second to
 21 the last, because he stayed on the plane. I
 22 apologize for that.
 23 Q. Do you recall approximately how far behind you
 24 the black youth was in terms of exiting the
 25 aircraft?

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1 A. While we were waiting to deboard the plane, one
 2 of the flight attendants -- and I don't remember
 3 which one it was -- came over and just thanked
 4 me for my assistance. And I said, "I really
 5 didn't do anything." All you did -- "All I did
 6 was move my seat. But anything, you know, to
 7 help out, I'm happy to help."
 8 But, again, I really felt I really
 9 didn't do anything special, except just saying
 10 okay to being -- having my seat changed for
 11 whatever the problem was.
 12 So then we engaged in a brief
 13 conversation. So I asked, "Well, what exactly
 14 happened?" And she said, "Well, you know, they
 15 were doing a trash collection on the plane, and
 16 the flight -- one of the flight attendants
 17 noticed, when they passed by the aisle where
 18 those two individuals were seated, that
 19 someone's hand was in a crotch area of the
 20 other's." She didn't elaborate whose hand was
 21 where.
 22 But that was something that they have
 23 to kind of combat, I guess, on flights, or it
 24 causes an issue. So in situations like that,
 25 they ask those passengers to be separated.

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1 Q. When you say --

2 A. I don't --

3 Q. Sorry to interrupt. When you say, "it's an
4 issue," what do you mean by that?

5 A. Well, she kind of alluded that, I guess these
6 things happen from time to time on flights. And
7 when things like that occur, she says, "We try
8 to mitigate the situation."

9 And, again, I'm paraphrasing. I'm
10 throwing that word in there, to kind of
11 alleviate any problems. So that's why it was
12 kind of conveyed to me that that's why those
13 passengers were separated.

14 Again, I didn't know -- she didn't
15 elaborate whose hand was where, and whose crotch
16 was where, she didn't say. She just said that
17 someone's hand was where it wasn't supposed to
18 be and that there was an issue.

19 But she -- that -- that -- it was left
20 at that. And I said, "Okay. That's fine." And
21 I said, "Well, why did you pick me?" She said,
22 "Well, you have -- you know, you look like
23 you're in the military or you're with law
24 enforcement," and that they're trained for
25 flight-safety purposes, I guess, to seek out

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1 A. I saw the white male --

2 (Unintelligible cross-talk.)

3 A. I saw the white male near the gate --
4 (Reporter clarification.)

5 A. I saw the white male, as I exited the plane,
6 went up the ramp to the gate area and the
7 passenger area of the terminal, I saw Mr.
8 DelVecchia with four uniformed police officers,
9 if I recall correctly, at the gate. And he was
10 speaking with them at the gate.

11 Q. Could you hear anything they were saying?

12 A. No. I just passed by and I kept walking.

13 Q. Do you recall where the black youth was at that
14 time?

15 A. I didn't see him. And I didn't turn around to
16 see if he exited the plane or not. Again, when
17 I was leaving the plane, there were two
18 uniformed officers on the plane towards the
19 cockpit.

20 Q. In the time that you were leaving the aircraft,
21 did you witness any interactions between any of
22 the flight crew and the -- that white male?

23 A. No.

24 Q. Did you witness any interactions between any of
25 the flight crew and the black youth?

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1 passengers that may be able to aid a flight crew
2 if there is a problem on a plane.

3 So, I said, "Okay. Well, again, I'm
4 happy to help. Thank you very much." And I
5 left the plane.

6 Q. So one of the things that you recall her
7 communicating to you during this conversation
8 was that this was done for flight-safety
9 purposes?

10 A. Not -- not -- not in those exact words. But it
11 was something that -- that there was an issue,
12 and that those two passengers had to be
13 separated for that issue. And that's why I was
14 asked to move my seat.

15 Q. Did she say anything to indicate that it was
16 done for reasons related to the race of the
17 passengers?

18 A. No.

19 MR. McKAY: Objection to the form of
20 the question.

21 Q. (By Mr. Martin) And the answer, just to clarify,
22 was "no"?

23 A. That's correct.

24 Q. After you exited the aircraft, did you see the
25 white male or black youth again at the time --

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1 A. After I got off the plane?

2 Q. As you were exiting the aircraft.

3 A. As I -- no, I did not.

4 Q. As you were -- you said you were in the last row
5 of the aircraft, correct?

6 A. Mm-hm.

7 Q. And so I imagine there was a period of time that
8 it took for the passengers in front of you to
9 file out, correct?

10 A. Yes.

11 Q. During that time, did any of the flight crew
12 come and interact with the black youth?

13 A. No.

14 Q. Did you say anything to him?

15 A. I did not talk to him, no.

16 Q. Did he say anything to you?

17 A. No, he did not.

18 Q. Did you ever indicate to him that you were a
19 member of the police?

20 A. I did not, no.

21 Q. So you didn't flash a badge to him at all?

22 A. I didn't have one with me. No.

23 Q. After you exited the aircraft and went up into
24 the airport, did you ever see either the -- Mr.
25 DelVecchia or the black youth again?

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1 A. I saw Mr. DelVecchia again, yes.
 2 Q. And when was that?
 3 A. We were on the -- I guess it's the train or the
 4 tram that takes you from the terminal to where
 5 baggage claim and ground transportation is. He
 6 was in the car in front of mine, and he was in
 7 the company of four police officers in that car.
 8 And then we got to our destination,
 9 and baggage claim, you go -- baggage claim,
 10 ground transportation one way. And then to the
 11 right, there was some sort of hallway and
 12 doorway, that I remember they escorted him off,
 13 I think it was to the right. And then that's
 14 the last time I saw him.
 15 Q. Do you recall if he was handcuffed?
 16 A. He was not handcuffed.
 17 Q. Could you hear anything that was said during
 18 that entire time?
 19 A. I could not, no.
 20 Q. I'm going to share my screen for a second. Can
 21 you see this, Mr. Higgins, on my screen? It
 22 says, "Witness Statement of Christopher
 23 Higgins"?
 24 A. Yes, I can.
 25 Q. Okay. I'm going to just -- can you see it okay

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1 saved in my computer.
 2 MR. McKAY: Matt, is this the signed
 3 version?
 4 MR. MARTIN: No.
 5 MR. McKAY: May I ask that we just use
 6 the signed version? Because on a -- on a
 7 Microsoft Word document, anything could've been
 8 changed.
 9 MR. MARTIN: I don't have it, John.
 10 If you could -- if you want --
 11 MR. McKAY: Sure.
 12 MR. MARTIN: -- to --
 13 MR. McKAY: Yeah. Absolutely, I'll
 14 share my screen.
 15 MR. MARTIN: Well, maybe we can wait
 16 till your --
 17 MR. McKAY: Yeah. That's fine. But,
 18 I mean, I would just object to -- to reading
 19 from anything on this one, because there's --
 20 there's no way to verify that -- that something
 21 hasn't been changed on the text.
 22 MR. MARTIN: I completely agree, John.
 23 We've never seen the PDF signed version
 24 ourselves in the 15 months since, apparently,
 25 it's been signed. So I'd love to see it myself.

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1 and read it okay?
 2 A. Yes, I can.
 3 Q. And what is -- can you tell me what this is?
 4 A. This is the witness statement that I signed
 5 maybe a little over a year ago that was provided
 6 to me by Mr. McKay, Mr. McKay's law firm.
 7 Q. Okay. I'm just going to kind of scroll down to
 8 the second page as well. I'll just leave it
 9 there for sec so you can just look at it.
 10 MR. McKAY: Mr. Martin, I have a
 11 question.
 12 MR. MARTIN: Sure, John.
 13 MR. McKAY: I'm seeing your program as
 14 Word.
 15 MR. MARTIN: Yeah.
 16 MR. McKAY: Why do you have a Word
 17 version of the document that should only exist
 18 in a PDF?
 19 MR. MARTIN: That's how I received it,
 20 John. Let me ask him so it's on the record.
 21 Q. (By Mr. Martin) Mr. Higgins, did you send me
 22 what appears to be this document yesterday?
 23 A. Yes, I did. This is the -- this was from an
 24 email that I received. Again, it was some time
 25 ago, of the document. And this is how I had it

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1 MR. McKAY: Okay.
 2 MR. MARTIN: So maybe when we get to
 3 your portion, we can do that. But, again, I'm
 4 just -- this is all I have as of yesterday. So
 5 I'm just going off of what I have.
 6 MR. McKAY: Noted.
 7 Q. (By Mr. Martin) Okay. So, Mr. Higgins, this is
 8 -- looks -- appears to be what you sent me
 9 yesterday, correct?
 10 A. That's correct.
 11 Q. Okay. And as you probably understood, once Mr.
 12 McKay asks his questions, it sounds like we'll
 13 all get to see the signed copy. So I'm just
 14 going to come back here. I guess -- can I --
 15 I'm going to --
 16 MR. MARTIN: Miss Court Reporter, can
 17 I mark that as Exhibit 1?
 18 MR. McKAY: No. I'm going to object
 19 to -- to that. Since it's a potentially altered
 20 document, I can't -- I can't agree to it being
 21 marked as an exhibit.
 22 Matt, we'll mark mine as Exhibit 1. I
 23 mean, that's -- that's the PDF that the man
 24 signed under penalty of perjury.
 25 MR. MARTIN: I unders- -- well, then

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1 we'll just produce this in discovery, and that
2 will be how it -- I don't know how you can
3 object --

4 MR. McKAY: Right.

5 MR. MARTIN: -- to me introducing a --
6 I'm not asking him to -- I just asked if this is
7 what he sent me yesterday, John. I didn't ask
8 him any questions about it. I didn't -- so I
9 don't understand the basis for your objection.
10 But...

11 MR. McKAY: Well, I mean, I'm being a
12 little bit more careful than I might in an
13 ordinary discovery deposition, because the
14 gentleman is -- is many, many, many miles away
15 from the courthouse. So I'm anticipating that
16 this deposition could be introduced into
17 evidence at trial.

18 So that's the primary basis for my
19 objection. I don't agree to this being a trial
20 exhibit. You know, you can mark it for
21 identification, but, you know, all you said was
22 mark it as Exhibit 1. And so to be --

23 MR. MARTIN: Deposition Exhibit 1.
24 (Unintelligible cross-talk.)

25 MR. McKAY: Yeah. So, I mean, if you

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1 But that's how we'll do that.

2 Q. (By Mr. Martin) Okay. Mr. Higgins, returning to
3 the -- the task at hand, just a few more
4 questions, I guess.

5 And, again, just -- you know, we're
6 just trying to ask based on what you recall from
7 your observations and your experience on that
8 day. And your perceptions and experience in law
9 enforcement, at any point while you were on the
10 airplane, did you ever see any member of the
11 Frontier flight crew do anything that you --
12 would be perceived as mistreating the white
13 male?

14 MR. McKAY: Objection to the form of
15 the question.

16 A. No.

17 Q. At any point while you were on the airplane, did
18 you see any member of the Frontier flight crew
19 do anything that you would perceive as
20 mistreatment of the black youth?

21 A. No.

22 MR. McKAY: Objection to the form of
23 the question.

24 Q. (By Mr. Martin) Did you ever see the male flight
25 attendant demonstrate any outward anger?

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1 want to mark it for -- for identification
2 purposes, I can live with that. But I can't --

3 MR. MARTIN: Okay.

4 MR. McKAY: -- I can't otherwise have
5 it marked as an exhibit, if -- if there's any
6 possibility -- and I'm not suggesting anything
7 about Mr. Higgins. I'm just saying that when
8 you -- when you have a Word document, a Word
9 document is always subject to change. And we
10 should be using, in my opinion, the one that's
11 been locked down into a PDF bearing the man's
12 signature.

13 MR. MARTIN: That's fine with me,
14 John. If I had the PDF, I would've used that.
15 But...

16 MR. McKAY: I was under no obligation
17 to produce it.

18 MR. MARTIN: Different topic.
19 Different day.

20 Okay. So I can send that to the
21 appropriate people with the notation that we'll
22 have it as Mr. McKay would like it, for the
23 purpose of this deposition. I'm not trying to
24 introduce it as a trial exhibit, certainly,
25 during a discover -- or during a deposition.

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1 A. No.

2 Q. Did you ever see the male flight attendant
3 demonstrate any hostility to any passenger on
4 that aircraft?

5 MR. McKAY: Objection to the form of
6 the question.

7 A. No.

8 Q. Did you ever see any member of the Frontier
9 flight crew do anything towards the white male
10 that you would classify as outrageous?

11 MR. McKAY: Objection to the form of
12 the question.

13 A. No.

14 Q. Did you ever see any member of the flight crew
15 do anything towards the black youth that you
16 would classify as outrageous?

17 MR. McKAY: Objection to the form of
18 the question.

19 A. No.

20 Q. Based on your over 30 years' experience in law
21 enforcement, do you feel --

22 MR. McKAY: I'm sorry, Matt. Is this
23 -- are you trying to qualify him as an expert?

24 MR. MARTIN: I don't see how you got
25 that, John, but --

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1 MR. McKAY: That's an expert witness
2 question beginning, "Based on your 30 years of
3 experience in law enforcement."

4 MR. MARTIN: I think that goes to --
5 (Unintelligible cross-talk.)

6 MR. McKAY: That's not an appropriate
7 question.

8 MR. MARTIN: -- to what happened.

9 MR. McKAY: You can -- you can ask him
10 facts. But you can't -- you can't preface it by
11 saying that it's based on his 30 years of
12 experience in law enforcement.

13 MR. MARTIN: We'll scratch the
14 question.

15 Q. (By Mr. Martin) Mr. Higgins, how long have you
16 been in law enforcement?

17 A. Thirty-one years.

18 Q. Do you feel that the flight crew on Flight 2067
19 showed restraint in handling the incident?

20 MR. McKAY: Same objection.

21 A. Yes.

22 Q. Do you have any perception that any of the crew,
23 the flight crew, acted recklessly?

24 MR. McKAY: Same objection. Objection
25 to the form of the question.

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1 may after him.

2 MR. McKAY: Yeah. We'll need to take
3 a little break. I'm going to be looking for a
4 document.

5 But, Matt, you may be able to put your
6 hands on it quicker. You guys produced a
7 seating diagram of the aircraft. Do you -- do
8 you have that handy?

9 MR. MARTIN: I can probably find it
10 pretty quickly, John.

11 MR. McKAY: Okay. I have it, too, but
12 it's just a matter of -- all I have it by is
13 Bates number, and I don't know what the Bates
14 number is.

15 MR. MARTIN: Yeah, that's fine. I --
16 let me see if I can find it for you.

17 THE VIDEOGRAPHER: Would you like to
18 go off record?

19 MR. McKAY: Yes, please.

20 THE VIDEOGRAPHER: Thank you. Off the
21 record at 2:09 p.m.

22 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

23 THE VIDEOGRAPHER: Thank you. We are
24 on the record at 2:19 p.m.

25 CROSS-EXAMINATION BY MR. McKAY:

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1 A. My perception, the flight crew acted
2 appropriately.

3 Q. Do you have any perception that any of the
4 flight crew acted maliciously?

5 MR. McKAY: Same objection. Matt,
6 these are -- these are legal terms. What are
7 you doing?

8 MR. MARTIN: John, your objection is
9 to form. Thank you.

10 Q. (By Mr. Martin) Did you ever see any member of
11 the flight crew intentionally physically harm
12 either the white male or black youth?

13 MR. McKAY: Objection to the form of
14 the question. The man can't know intent of
15 somebody he's observing.

16 A. No.

17 Q. Did you ever have the perception that the
18 separation was because of the races of the
19 individuals involved?

20 MR. McKAY: Objection to the form of
21 the question.

22 A. No.

23 MR. MARTIN: That's all the questions
24 I have, sir. I appreciate your time.

25 Mr. McKay may have some, and then I

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1 Q. All right. Mr. Higgins, hi. I am John McKay.
2 We -- we haven't met face-to-face, but as you
3 testified, we -- we spoke on the phone about a
4 year ago. Nice to see you again.

5 Let me just do a little bit of
6 housekeeping here. Is your email still the same
7 address that we corresponded with?

8 A. Yes, it is.

9 Q. Okay. And does your telephone number still end
10 in 8827?

11 A. Yes, it does.

12 Q. Okay. Great. Thank you. What was the reason
13 for your trip out to Las Vegas?

14 A. I was meeting a group of friends -- one of my
15 friend's -- or my good friend's, whose son was
16 getting married, and the bachelor party was out
17 in Vegas. And I hadn't seen him in a while,
18 since relocating to North Carolina --

19 Q. Sure.

20 A. -- outside of making some occasional trips to
21 the New York area. We --

22 Q. Were they friends from -- I'm sorry. I didn't
23 mean to interrupt you.

24 A. Yeah. We grew up -- we all grew up together --

25 Q. Okay.

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1 A. -- went to high school together and that sort of
 2 thing. Mm-hm.
 3 Q. Do you remember how much time you spent out in
 4 the Las Vegas area?
 5 A. Three days.
 6 Q. Okay. Do you recall what you were wearing on
 7 the flight?
 8 A. I was wearing a nicer pair of jeans, probably
 9 shoes, and a collared shirt, probably a golf
 10 shirt or a button-down shirt. I don't recall
 11 which one.
 12 Q. You don't frequently travel without shoes, do
 13 you?
 14 A. No, I don't. No. But I don't wear -- I
 15 normally don't wear sneakers. I try to look
 16 nice on a plane. You know, some -- you go on
 17 planes these days and people are in their
 18 pajamas sometimes.
 19 Q. Yeah.
 20 A. I don't do that. I try to dress appropriately
 21 when I'm going on a plane.
 22 Q. I guess it depends on what you're going to do
 23 once you get to the other end, though, right, as
 24 to what you wear?
 25 A. True. Yeah. Yeah. You could be rolling right

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1 Q. Okay. But I guess we started down this road
 2 when you said shoes, and I was just questioning.
 3 So you meant hard shoes, you meant dress shoes?
 4 A. Sneakers. Shoes.
 5 Q. I see. There's a diff- --
 6 A. Okay.
 7 Q. Okay. It's, I think, maybe a regional thing.
 8 So -- okay. So when you say you were wearing
 9 shoes, that meant you were not wearing sneakers?
 10 A. I wasn't wearing sneakers, no.
 11 Q. Okay. Got it. Thank you.
 12 Do you recall anybody coming by to
 13 offer you a snack or something to drink on the
 14 plane?
 15 A. At what part during the flight?
 16 Q. Well, that was going to be my question. Do you
 17 recall when that occurred, if it did?
 18 A. Well, they -- they went through with regular
 19 cabin service after the flight had taken off.
 20 Then, after I was moved, they asked me if I
 21 needed anything. Do I want a cocktail, and a
 22 drink, or a snack, and I declined at that point,
 23 yes.
 24 Q. Okay. So the first time they came by for what
 25 you called the regular service, do you remember

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1 into the hotel, and right into bed. You never
 2 know --
 3 Q. Yeah. And, I mean, some people come straight
 4 from the beach, too, on planes.
 5 (Unintelligible cross-talk.)
 6 (Reporter clarification.)
 7 A. Well, that's correct. You know, some people
 8 roll off a plane, go right to the hotel, so they
 9 might be in their pajamas, you know.
 10 Q. Yeah. I mean, if somebody's, for instance,
 11 going to go camping when they -- when they get
 12 to their destination, you wouldn't expect them
 13 to be dressed up in business-casual clothes,
 14 would you?
 15 A. No.
 16 Q. Okay. And -- and like I was saying, you know,
 17 sometimes you get on a plane and there's people
 18 who have come from, you know, a connecting
 19 flight from some beach vacation, you know, they
 20 might be wearing a Hawaiian shirt and a pair of
 21 shorts, right?
 22 A. That's correct.
 23 Q. And that's -- there's nothing wrong with that,
 24 is there?
 25 A. No.

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1 who it was that was -- in terms of the flight
 2 attendants, that was doing that?
 3 A. I don't recall which one.
 4 Q. Okay. Do you recall, male or female?
 5 A. No, I don't recall.
 6 Q. Okay. Did you purchase anything?
 7 A. On the flight?
 8 Q. Yeah.
 9 A. No.
 10 Q. Okay. So -- and -- and is it your recollection
 11 or understanding that if you did get something
 12 other than water, that it would be -- have to be
 13 paid for?
 14 A. Yes.
 15 Q. Okay. So you didn't have anything to -- to
 16 drink on the plane?
 17 A. I did not. No, I did not. I may have had -- I
 18 think they offered complimentary soda. And then
 19 I think the alcoholic beverage, you had to pay
 20 for. But I didn't have a drink on the plane.
 21 Q. Okay. All right. It sounds from your testimony
 22 like there were some impediments to being able
 23 to see and hear everything going on in the
 24 plane. Would you agree with that?
 25 A. Yes.

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1 Q. Okay. There was the noise of the engines, for
 2 example?
 3 A. Mm-hm. Yes.
 4 Q. And that -- that would keep you from hearing
 5 everything that somebody said on the plane?
 6 A. That's correct.
 7 Q. And the -- the seat tops you described were --
 8 were rather high. I remember you pointing to
 9 your ears as sort of that's where the -- the top
 10 of the seat would come on somebody?
 11 A. Again, you know, as I stated before, with some
 12 passengers, you could see the tops of their
 13 heads. You could see more than just the tops of
 14 their heads. Some passengers, you couldn't see
 15 any of their heads.
 16 Q. Okay.
 17 A. You know, with mine, I know my head was sticking
 18 up towards the back a little bit. It didn't
 19 completely cover my head. I mean, I'm almost 6
 20 feet tall.
 21 Q. So if -- if somebody is sitting -- you know,
 22 normally sitting erect in a seat, depending on
 23 how tall they were, you might be able to see the
 24 top of their head?
 25 A. Correct. And then you'd have to factor in, if

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1 approached by the male flight attendant?
 2 A. I would say that's probably accurate, yes.
 3 Q. Now, tell me a little bit more detail. You said
 4 that you spoke with Mr. -- well, the male flight
 5 attendant for some time when he first came back.
 6 I have in my notes here you said about a 30-
 7 second conversation. Did he explain to you what
 8 was going on in some fashion?
 9 A. No, I wouldn't -- I wouldn't describe it as a
 10 conversation.
 11 Q. Okay.
 12 A. I would describe it as more that he came over
 13 and said, "Excuse me, sir, we may -- would you
 14 be willing to move your seat? We -- we have an
 15 issue with two passengers."
 16 Q. Okay.
 17 A. And he didn't elaborate.
 18 Q. Well --
 19 A. And he asked me if I would be willing to move my
 20 seat. And that was pretty much the context of
 21 the interaction between him and I.
 22 Q. And as you've testified, you are a law
 23 enforcement officer with many years on the
 24 force, right?
 25 A. That's correct.

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1 they declined -- if they reclined the seat or
 2 not.
 3 Q. Okay. Because if they reclined, then what would
 4 you be able to see?
 5 A. You might be able to see more --
 6 Q. Okay.
 7 A. -- of their head. Yeah.
 8 Q. Did you notice if these seats reclined?
 9 A. I believe they did, yes.
 10 Q. Okay.
 11 A. They weren't the most comfortable, but they
 12 reclined.
 13 Q. What if somebody was bent forward? Would you be
 14 able to see the top of their head then?
 15 A. I would say probably not.
 16 Q. Okay. There has been some testimony -- and I'm
 17 not going to say whether it's, you know, true or
 18 not -- I'm just saying there -- there has been
 19 some testimony that Mr. DelVecchia and his son
 20 swapped seats with another two passengers before
 21 the plane took off. Did you see anything to
 22 that effect?
 23 A. No, I did not.
 24 Q. Okay. And so the first time that you saw Mr.
 25 DelVecchia and his son, then, was when they were

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1 Q. And a flight attendant comes back and perhaps
 2 discreetly says to you, "Excuse me, but there's
 3 an issue on the plane," what was going through
 4 your mind?
 5 A. It could've been anything. It could've been a
 6 sick passenger. It could run the gamut. I had
 7 all kinds of scenarios running through my head,
 8 from, you know, possible sick passenger, is
 9 somebody in distress for some other reason,
 10 mental health crisis, to a possible altercation.
 11 Again, I was pretty much observant
 12 during the flight, you know, for the most part.
 13 I didn't see anything out of the ordinary going
 14 on on the plane. Didn't notice any problems on
 15 the plane, around my area of the plane, anyway.
 16 Again, the flight was full. It was
 17 fully booked. There were a lot of people on the
 18 plane. I don't have the exact number of
 19 passengers, but the flight was booked. There
 20 could've been a problem anywhere on the plane.
 21 But, again, in my immediate area, I
 22 didn't see anything out of the ordinary. I
 23 didn't notice anything out of the ordinary. And
 24 it didn't appear that there was any problems on
 25 the plane.

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1 Q. If somebody had communicated a bomb threat, you
2 wouldn't expect that you would've seen anything
3 out of the ordinary, would you?

4 A. Don't know. I mean, bomb threats happen in all
5 different fashions, you know.

6 Q. Yes.

7 A. Again, he -- our interaction was very short. He
8 asked me if I would be willing to relocate my
9 seat.

10 I didn't know that -- he didn't say
11 that "We need your assistance," per se. It was
12 more like, "Would you be willing to move your
13 seat? There is an issue with two passengers,
14 and we have to separate them."

15 Q. So he did say, then, that there was an issue
16 with two passengers?

17 A. He said an issue. He didn't elaborate what the
18 issue was. He didn't offer that.

19 Q. It didn't cross your mind that maybe there was
20 some kind of issue with the safety of the
21 flight?

22 A. He didn't say, "safety of the flight." He said
23 safety -- he said, "issue with the passengers."

24 Q. Well, I'm just saying that, as you're sitting
25 there, as somebody who would be affected if

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1 of the people around me had fallen asleep.
2 Again, the lights were dimmed. And I didn't see
3 any problems, either directly in front of me,
4 behind me, or to each side of me.

5 Q. So, Mr. Higgins, what I'd like to know in
6 particular --

7 A. I'm sorry? Excuse me?

8 THE COURT REPORTER: Are you talking,
9 Mr. McKay?

10 MR. MARTIN: John?

11 THE COURT REPORTER: Mr. McKay?

12 (Pause in proceedings.)

13 Q. (By Mr. McKay) What I'd like to know in
14 particular, Mr. Higgins, is, that period of
15 time, from when I said, "What I'd like to know
16 in particular," until I started talking again
17 was 30 seconds, which you testified is the
18 length of time that you spoke to the flight
19 attendant. That's a long time, isn't it?

20 A. It depends on your perception. It could --

21 Q. Well, we all have the same perception about
22 time, I think. So during that time, you're
23 trying to say, on the one hand, that it was a
24 very quick conversation in which he only asked
25 you if you'd be willing to move your seat. But

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1 there was an issue with the safety of the
2 flight, it never crossed your mind that there
3 might be something going on that could affect
4 the safety of the flight?

5 A. Of course it crossed my mind.

6 Q. Okay. So you probably asked the flight
7 attendant if anything like that was going on?

8 A. I didn't have a chance to ask him. He asked me
9 if I was willing to move my seat. Again,
10 because there was an issue between two
11 passengers. And I said, "Okay." And then he
12 left.

13 I didn't have a chance to ask him
14 exactly what was going on. And, again, from my
15 observation sitting there, I didn't see any
16 problems between any passengers. The flight
17 appeared to be fairly normal.

18 You know, people -- there was a group,
19 again, behind me that were having a little bit
20 of a party on their way to Vegas. They weren't
21 disruptive, or loud, or anything like that, you
22 know, it was a group of friends hanging out. I
23 thought maybe it was them.

24 I turned around and maybe took a look,
25 and it seemed like they were fine. Most -- most

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1 then on the other hand, you testified to Mr.
2 Martin it was 30 seconds of conversation. So
3 what --

4 A. I'll --

5 Q. -- was it you talked about, Mr. Higgins?

6 A. I'll use -- I'll say this. I'm using 30 seconds
7 as a roundabout number. It wasn't -- and what I
8 mean by that is, it was a short period of time,
9 all right? Our interaction, conversa- -- our
10 conversation was maybe three sentences, okay,
11 between me and the flight attendant.

12 Q. Well, let's go through those three sentences,
13 then. What was the first sentence?

14 A. He came up to me first and said, "Sir, would you
15 be willing to move your seat?"

16 Q. Okay.

17 A. And I said --

18 Q. And then the second sentence?

19 A. "Okay."

20 Q. Okay.

21 A. "We have an issue" --

22 Q. And then the third sentence?

23 A. "We have an issue" -- something to the effect --
24 and, again, I'm paraphrasing -- "We have an
25 issue between two passengers."

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1 Q. All right. That took about --
 2 A. I said, "Okay."
 3 Q. -- three seconds. So what was -- what was
 4 discussed during the other 27?
 5 A. Again, I'm using it as a roundabout number, Mr.
 6 McKay.
 7 Q. Well, I mean, 30 seconds is 30 seconds to all of
 8 us on the planet. So when you say that you
 9 talked to the flight attendant for 30 seconds,
 10 I'm trying to figure out what you talked about,
 11 because you've only described about three
 12 seconds' worth of conversation.
 13 A. Well, then it was less than 30 seconds.
 14 Q. So you're changing --
 15 A. We didn't have much of a --
 16 Q. -- your earlier testimony?
 17 A. Well, like I said, I used 30 seconds as a
 18 roundabout number. We did not --
 19 Q. Hm. So --
 20 A. -- have a lengthy conversation. That may have
 21 taken 30 seconds. It may have been less than
 22 that.
 23 Q. So it's fair to say, I guess, that you don't
 24 recall exactly what you discussed?
 25 A. I recall exactly the interaction and the

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1 Martin?
 2 A. In terms of the length of the conversation, it
 3 may have been less than 30 seconds. But not the
 4 context of the conversation.
 5 Q. So your statement of 30 seconds to Mr. Martin
 6 under oath in the deposition may have been
 7 incorrect?
 8 MR. MARTIN: Object to the form.
 9 A. It may -- it may have been less than 30 seconds.
 10 And, again, you're asking me about an incident
 11 that occurred over two years ago.
 12 Q. Okay.
 13 A. Okay.
 14 Q. So there's -- there's probably a lot you don't
 15 remember specifically?
 16 A. I remember the context of the conversation. And
 17 I do remember the incident. In terms of --
 18 Q. Do you --
 19 A. -- the length -- in terms of the length of time
 20 of a conversation between me and the flight
 21 attendant, it may have been less than 30
 22 seconds. I used 30 seconds as maybe a
 23 roundabout number.
 24 Q. Well, also speaking about roundabout things,
 25 you've also, in many instances in response to

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1 discussion between me and the flight attendant.
 2 Whether it was 30 seconds or not, all that could
 3 be open to interpretation, all right? It may
 4 have been less than that.
 5 But I do remember what the flight
 6 attendant said to me, I remember what I
 7 responded, and I remember what he said back to
 8 me after that.
 9 Q. But you didn't remember those specifics when Mr.
 10 Martin was asking you how long you spoke to the
 11 flight attendant?
 12 A. Again, what are you referring to as "specifics"?
 13 Q. The three very short sentences that you just
 14 described.
 15 A. Again, our conversation was very short. It
 16 wasn't very long, okay?
 17 Q. But you testified that it was 30 seconds.
 18 A. Then it was less than 30 seconds. If you're
 19 here to prove a point -- and I'm not going to
 20 argue with you --
 21 Q. Well --
 22 A. It may have been less than 30 seconds. But I do
 23 remember the context of the conversation.
 24 Q. So you would agree, then, that there may have
 25 been some inaccuracy in your description to Mr.

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1 Mr. Martin's questions, saying "I'm" -- said,
 2 "I'm paraphrasing here." Do you remember that?
 3 A. Yes. I don't remember the exact words, word for
 4 word. I do --
 5 Q. Okay.
 6 A. -- remember the context of the conversation.
 7 Q. Okay. So in terms of length of time, you don't
 8 remember exactly. And in terms of the exact
 9 words, you don't remember exactly?
 10 A. Again, I've used the word "paraphrasing," okay,
 11 because I don't remember the exact words. But I
 12 remember the context and the situation of the
 13 conversation.
 14 Q. When did it become clear to you that you knew
 15 what you were being asked to do?
 16 A. When he asked me, "Would you be willing to move
 17 your seat?" And I said, "Okay." And he said,
 18 "We have a situation between two passengers," or
 19 "an issue between two passengers."
 20 Q. You're not sure --
 21 A. And I said, "Okay." So --
 22 Q. But you're not sure what the words were that he
 23 used?
 24 A. He used those words, that there was an issue
 25 between two passengers. I do remember that.

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1 Q. Did he indicate which two passengers?
 2 A. He did not say, no. And he did not make any
 3 physical motion towards anybody around me or
 4 anybody in the plane.
 5 Q. But in terms of understanding what you were to
 6 do, are you saying that the only thing you
 7 understood was that you were to switch your
 8 seat?
 9 A. That's what I understood. He didn't ask -- and
 10 I'll just add, he didn't ask for any assistance.
 11 He just asked me to move my seat.
 12 Q. Did anybody sit in your seat after you moved?
 13 A. I don't know.
 14 Q. Okay. You didn't understand that it was -- you
 15 were just to make your seat available to
 16 somebody else, then?
 17 A. No.
 18 Q. You were being asked, for a particular reason,
 19 not just to move your seat, but to assist with
 20 whatever the flight attendant was doing, right?
 21 A. He didn't use the word "assist." He used the
 22 words, "Would you be willing" -- you know,
 23 "Would you move" -- "Would you be willing to
 24 move your seat?"
 25 Q. I know. But --

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1 Q. If he didn't want to use your seat after you
 2 left it, why do you think he picked you among 30
 3 rows of passengers?
 4 A. Well, as I stated to Mr. Martin, later on in the
 5 flight, I asked, "Well, why did you pick me?"
 6 And they said, "Well, you have a" -- you know,
 7 "You look like you possibly could be in the
 8 military or a member of law enforcement. You're
 9 clean-cut."
 10 And they went on with those sort of
 11 adjectives to describe passengers that they are
 12 trained to look for that may assist them if
 13 there's a problem on the plane.
 14 Again, I am not familiar with airline
 15 security, safety, or their policy at Frontier
 16 with regards to that. That was just conveyed to
 17 me by one of the flight attendants while I was
 18 waiting to deboard the plane when we landed in
 19 Vegas.
 20 Q. That brings up another question, if I may.
 21 You're not familiar with any of Frontier's
 22 policies, are you?
 23 A. That's correct.
 24 Q. And you're not familiar from any other airline
 25 with airline policies regarding safety, or

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1 A. Switch seats.
 2 Q. I mean, there's -- there's, would you be willing
 3 to move your seat so that somebody else could
 4 sit there? Or there's, would you be willing to
 5 come with me and help me? Which of the two was
 6 it?
 7 A. No. He said, "Would you be willing to move your
 8 seat? We have an issue between two passengers."
 9 And I said, "Okay."
 10 And he didn't elaborate into it, what
 11 the issue was. He just asked me to move my
 12 seat. He didn't ask me to assist him in any
 13 way.
 14 Q. And you would like us to -- to think that you,
 15 as a police officer, just said, "Okay. I'll
 16 move my seat"? You weren't concerned about what
 17 was the issue?
 18 A. Well, like I said, of course. Like, things were
 19 going through my mind --
 20 Q. Right.
 21 A. -- of what's going on. But, again, I didn't
 22 have the luxury or the time to ask him because
 23 he asked it in a relatively quick and quiet
 24 fashion. And then he left. He went towards the
 25 front of the plane.

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1 dangers to the flight, or issues between
 2 passengers, are you?
 3 A. That's correct.
 4 Q. You're not?
 5 A. I'm not, no.
 6 Q. And you've never worked in aviation security?
 7 A. I did not, no.
 8 Q. Never worked for an airline?
 9 A. I have not, no.
 10 Q. You don't have a hobby of studying airline
 11 procedures in your spare time?
 12 A. I do not.
 13 Q. Okay. And nor do you, for any professional
 14 reason, have to study airline procedures?
 15 A. I do not.
 16 Q. Your -- your work at the New York Police
 17 Department didn't involve anything with airlines
 18 on a day-to-day basis?
 19 A. It did not.
 20 Q. Your work for University of North Carolina
 21 didn't involve anything having to do with
 22 airlines?
 23 A. It did not.
 24 Q. And your current work with Wake Forest Police
 25 Department doesn't involve anything with

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1 airlines?

2 A. It does not.

3 Q. Okay. So when this female flight attendant told
4 you, after the flight had landed why you were
5 selected, was that a surprise to you?

6 A. Surprise? A little bit. I mean, there were
7 other gentlemen on the plane and other people on
8 the plane who, you know, could've been picked,
9 also, you know. I wasn't the only guy with a
10 short haircut on the plane wearing a collared
11 shirt.

12 You know, I was, like, okay, well, I
13 was glad that nothing happened. I maybe said
14 something to that effect, that "I'm glad nothing
15 really came of this." And, you know, "Thank you
16 very much, and have a nice evening." And that
17 was -- that was basically it.

18 Q. How long did you -- do you think you sat in that
19 aisle seat in row 30 from the time that you
20 first sat down until the plane landed?

21 A. It may have been about two hours. I believe it
22 was about a five-hour flight in total.

23 Q. During those two hours, did it not cross your
24 mind that, you know, why -- why -- why me, of
25 all the other male passengers, or all the other

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1 attendant, I figured that was the issue that
2 they had addressed; it was just a passenger
3 separation.

4 And, again, as I stated earlier, it
5 kind of went easy. I don't want to use the word
6 "easy." But there wasn't any issues from the
7 passenger separation. There wasn't an argument,
8 there wasn't a physical altercation, there
9 wasn't even much of a protest on the part of Mr.
10 DelVecchia, that I saw. He didn't try to come
11 back to the plane again for the remainder of the
12 flight.

13 And I figured, okay, this is the issue
14 that they were referring to. I guess it was
15 just a passenger separation, and it wasn't more
16 of a serious condition, such as a hijacking or a
17 bomb threat on the plane.

18 Q. And as you've testified, the father came back
19 within a few seconds of your arriving at -- at
20 the row 30, right?

21 A. Well, at -- at that time, I wasn't -- I wasn't
22 aware that -- that he -- that they were father
23 and son.

24 Q. Okay.

25 A. I did not know that.

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1 passengers on the plane?

2 A. Of course I thought about it. I mean, like I
3 said, at that point, you know, I wasn't on my
4 phone, I wasn't listening to any music. You had
5 to pay for the Wi-Fi service on the plane. I
6 didn't do that at the outset of the flight, so I
7 really couldn't surf the internet or do anything
8 like that.

9 So I just kind of remained, you know,
10 alert at the back of the plane. Again, things
11 were going through my mind like, well, what
12 happened? And this was after Mr. DelVecchia had
13 come to the back of the plane, and then he went
14 back to his seat. And I said, well, you know, I
15 might as well just kind of hang out, wait for
16 the plane to land, and just hopefully nothing
17 else happens, because I just wanted to --

18 Q. Okay.

19 A. -- to get to Vegas at that point.

20 Q. If you didn't understand what was going on,
21 weren't you concerned that there might be a
22 hijack attempt, or bomb threat, or something
23 along those lines?

24 A. Well, if -- after that, after the interaction
25 that Mr. DelVecchia had with the flight

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1 Q. Well, what did you think?

2 A. I didn't know what was going on. To be honest
3 with you, I wasn't -- and the airline personnel
4 didn't make me aware of what was going on until
5 after we had landed. I didn't know that they
6 were traveling together, and I didn't know that
7 they were father and son.

8 Q. Okay. Well, let me ask you in terms, then, of
9 -- of the middle-seat passenger who you've
10 identified as Mr. DelVecchia, right?

11 A. Mm-hm.

12 Q. Okay. That's a yes. I'm sorry. You have to
13 say yes or no.

14 A. Yes. I'm sorry.

15 Q. No, my apologies. There's a written transcript
16 that comes out of this, and so --

17 A. Mm-hm. Yeah, no shoulder shrugging, no --

18 Q. Gotcha.

19 A. -- head nodding and --

20 Q. Right. You -- (audio cut out) --

21 A. -- stuff like that. Yes.

22 Q. Yeah. Okay. And the court reporter is right
23 now giving me those eyes that say, "You're
24 talking at the same time as the witness," so I
25 will refrain from doing that, and perhaps she

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1 won't kill us.

2 Okay. So with respect to the middle-
3 seat passenger, who you've identified as the
4 elder Mr. DelVecchia, he came back and was
5 confronted by Mr. -- by the male flight
6 attendant just after you sat down in row 30 with
7 the gentleman you've described as the black
8 youth?

9 A. That's correct.

10 Q. So it's possible that he was following along,
11 perhaps even behind the flight attendant and the
12 black youth, as they were walking back to row
13 30?

14 A. No. We were seated for a period of time. The
15 exact period of time, I do not recall how long
16 we were seated back there for. Maybe --

17 Q. Okay.

18 A. -- a few minutes, maybe more than that. Then
19 Mr. DelVecchia came to the back -- started to
20 make his way to the rear of the plane.

21 Q. Okay. But, you know, we -- we have to be
22 somewhat precise here. And I know you said that
23 you had some difficulty with estimating time.
24 But, I mean, was it -- was it a big, long length
25 of time? Was it a short period of time?

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1 that the parameters of the mission in which you
2 had been enlisted were to keep those two apart.
3 Would that be a fair statement?

4 A. No. I was never -- again, I was asked only to
5 move my seat, not assist the flight crew in
6 separating any passengers.

7 Q. But you saw the male flight attendant block, in
8 your testimony, Mr. DelVecchia from getting to
9 row 30, correct?

10 A. He was standing in the aisle between us and Mr.
11 DelVecchia. Yes.

12 Q. And -- and you described that as blocking
13 earlier.

14 A. Yeah, you could say blocking, sure.

15 Q. So you understood at that point that -- that the
16 flight attendant did not want Mr. DelVecchia to
17 come back to row 30?

18 A. Yes.

19 Q. Okay. And you understood that you had been
20 moved for a reason, right?

21 A. I was asked to move my seat, yes.

22 Q. Yeah. You keep saying that. But, I mean, you
23 understood that there was a reason for that.

24 A. Now I see what the reason was. Yes.

25 Q. At that point, you saw what the reason was?

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1 A. That was a short period of time.

2 Q. Okay. And what was it that -- well, you've
3 testified about what you heard Mr. DelVecchia
4 say, and he said that to the black youth. Did
5 you -- did you hear him say anything to the male
6 flight attendant?

7 A. I testified earlier that the male flight
8 attendant -- Mr. DelVecchia was walking to the
9 back of the plane. The male flight attendant
10 walked towards him. And I recall Mr. DelVecchia
11 -- and this is about a row or two from where we
12 were seated -- and I could hear him say, "That's
13 my son. I just want to see if he's okay."

14 Q. Okay. And could you -- even though the -- I
15 assume at that point, the black -- I'm sorry --
16 the male flight attendant was facing away from
17 you?

18 A. Yes, his back was -- was towards me. Yes.

19 Q. And so were you able to hear anything that he
20 said to Mr. DelVecchia?

21 A. Not exactly what I could hear. I may have
22 heard, "You can't" -- something -- "You can't go
23 back there," something. But I don't remember
24 exactly what he said.

25 Q. At that point, though, you -- you understood

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1 A. Mm-hm.

2 Q. Yes?

3 A. Yes.

4 Q. Okay. So, again, I would say your understanding
5 at that point was that Mr. DelVecchia was not to
6 reach row 30.

7 A. Well, yes, that the flight attendant was
8 standing in the aisle. He was -- Mr. DelVecchia
9 kept saying that he just wanted to see -- that
10 that was his son, that he wanted to talk to him
11 for a minute, he wanted to see if he was okay.

12 Q. So you understood that Mr. DelVecchia desired to
13 be in the same area as the black youth?

14 A. Yes.

15 Q. And you understood that the flight attendant did
16 not want that to happen?

17 A. That's what it appeared to be, yes.

18 Q. And you had complied with the flight attendant's
19 request to sit in the aisle seat of row 30?

20 A. That's correct.

21 Q. And you understood that to be connected to what
22 the flight attendant wanted to happen, or not
23 happen?

24 A. That's correct.

25 Q. Okay. Now, if the black youth had said, "Excuse

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1 me. I'd like to get out," and then had walked
 2 up to where Mr. DelVecchia was seated, you
 3 would've understood that that would've been
 4 contrary to the flight attendant's desires,
 5 right?
 6 A. Yes.
 7 Q. Okay. And so if the black youth had asked to
 8 get out, you would've been concerned about where
 9 he was going, wouldn't you?
 10 A. Well, I would've waited for someone from the
 11 flight crew to maybe ask something, saw what the
 12 situation would've entailed. But, again, I
 13 wasn't privy to what was going on at that point,
 14 or why they were separated.
 15 Q. Well, just to clarify what you just said, then.
 16 If the black youth had asked or indicated that
 17 he wanted out of row 30, you would have stopped
 18 him until you got further instructions from the
 19 flight attendant?
 20 A. I didn't say that. What I -- I would probably
 21 have let him out, because I didn't know what was
 22 going on. And the flight attendant didn't tell
 23 me what was going on, or why they were separated
 24 at that point.
 25 Q. Well, you've just testified that you had an

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1 because the flight attendant told you?
 2 A. Well, that there was a problem, yes. But I'm --
 3 Q. Okay.
 4 A. -- going to add, that -- again, I'll just
 5 reiterate that the interaction between the
 6 flight attendant, Mr. DelVecchia, the flight
 7 attendant and the black male youth, was not
 8 confrontational, from my perception.
 9 Q. If your understanding was only that you were
 10 being requested to assist in the event something
 11 came up, and you had already agreed to do that,
 12 you could've done that from row 20. Yes?
 13 A. Can you just elaborate on that? I'm not
 14 following your question exactly.
 15 Q. No problem. So I'll break it down. You
 16 understood that the male flight attendant
 17 approached you and asked you if you were willing
 18 to assist, right?
 19 A. Sure.
 20 Q. Okay.
 21 A. By moving my seat.
 22 Q. Ah, but, see, there's the moving the seat part.
 23 You had to have ascribed some significance to
 24 the moving of the seat, right?
 25 MR. MARTIN: Object to form.

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1 understanding of the flight attendant --
 2 attendant's intentions when you saw him prevent
 3 Mr. DelVecchia from getting to row 30. So how
 4 does that jibe with saying, "I don't know what
 5 was going on"?
 6 A. Well, I didn't know the context of why they were
 7 separated. I knew that there was -- I am
 8 perceiving that there's some sort of issue,
 9 okay?
 10 But, again, I don't have any legal
 11 authority on the plane. I'm traveling as a
 12 passenger and a private citizen, okay? I don't
 13 have any jurisdiction on an airplane. I'm not a
 14 federal marshal or anything like that. So I
 15 didn't know the reason why they were separated.
 16 Q. Nobody's saying that -- that you are any of
 17 those things. But you certainly understood your
 18 role sitting in the aisle seat of row 30; did
 19 you not?
 20 A. Well, I'm going to put my role as just -- as a
 21 traveling passenger. I would be willing to
 22 assist the flight crew if there was a problem.
 23 Q. And you were so willing?
 24 A. Yes.
 25 Q. And you understood that there was a problem

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1 A. Well, I understood that they were asking me to
 2 move my seat because there was an issue with the
 3 passengers.
 4 Q. And --
 5 A. They were asking me if I was willing to help the
 6 flight crew at row 20, and if I'm willing -- if
 7 I was willing to help the flight crew at row 30,
 8 and the answer to that is yes.
 9 Q. Both places, you would've helped?
 10 A. I would've helped, yes.
 11 Q. So, certainly, you understood that you were in
 12 row 30 for a reason?
 13 A. Yes.
 14 Q. And that reason was to be seated next to the
 15 black youth?
 16 A. There was a seat between us. But I was sitting
 17 in the same row with the black youth, yes.
 18 Q. The reason was to sit in the same row as the
 19 black youth?
 20 A. Correct.
 21 Q. And the black youth could not have left that row
 22 without either you moving or him crawling over
 23 the top of you?
 24 A. That's correct.
 25 Q. And you understood, after seeing the male flight

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1 attendant block Mr. DelVecchia from getting to
 2 row 30, that Mr. DelVecchia was to be separated
 3 -- to kept -- was to be kept separate from the
 4 black youth, correct?
 5 A. That was -- yes, that was the flight crews'
 6 intention. Yes.
 7 Q. Yeah. And you were willing to help carry out
 8 that intention?
 9 A. If needed, yes.
 10 Q. Okay. And if the black youth had attempted to
 11 leave row 30, that would've been an instance
 12 when that assistance would've been needed,
 13 right?
 14 A. Yes.
 15 Q. Okay. You were okay with helping out the male
 16 flight attendant?
 17 A. Based on the situation, how I perceived it, I
 18 was, like, okay, then yes.
 19 Q. Okay. And did you understand that you were also
 20 helping out other members of the flight crew?
 21 A. Yes.
 22 Q. Okay. And that would include the other -- the
 23 other female flight attendants?
 24 A. Excuse me a sec. Yes, that's correct.
 25 Q. Okay. Do you need to take a break? We can do

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1 A. I believe that maybe three stripes is a captain,
 2 and two stripes is a first officer.
 3 Q. Okay. More stripes for the captain than the
 4 first officer. Is that what you believe?
 5 A. More gray hairs for the captain, and less gray
 6 hairs for the --
 7 Q. Okay.
 8 A. -- first officer.
 9 Q. So as you recall, looking up to the front of the
 10 aircraft and seeing the pilot come out of the
 11 cockpit, what can you remember description-wise
 12 about that person?
 13 A. He was in a -- you know, a flight crew uniform,
 14 blue pants, maybe a white shirt. I don't recall
 15 if it was a white shirt or not.
 16 Q. Did you --
 17 A. He had a lapel -- he had a -- over the shoulder,
 18 he had the lapel, and an epaulet, maybe -- I
 19 think maybe he had two. Maybe he had two. I
 20 don't think it was a captain.
 21 Q. Okay.
 22 A. He looked -- he looked a little younger.
 23 Q. What about hair?
 24 A. He wasn't --
 25 Q. Do you remember the hair?

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1 that.
 2 A. Oh, no, no, no. It's just -- something's
 3 beeping over here.
 4 Q. All right. And that would also include the --
 5 the pilot that you saw up at the front?
 6 A. Yes.
 7 Q. Now, I believe you testified that you were not
 8 sure whether it was the captain or the first
 9 officer. Do you understand the distinction
 10 between those terms?
 11 A. Yes, I do.
 12 Q. Okay. Are you able, for instance, in an -- in
 13 an airport terminal environment to distinguish
 14 between which ones are the captains and which
 15 ones are the first officers?
 16 A. Their insignia, lapels, and things like that are
 17 all different. I can distinguish between, say,
 18 the flight steward or stewardess to the actual
 19 pilot and the copilot.
 20 Q. Have you ever seen the epaulets that they wear
 21 on their shoulders?
 22 A. I've seen them, yes.
 23 Q. Okay. Are you aware that -- that there's a
 24 distinction in the stripes between the rank of
 25 captain and the rank of first officer?

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1 A. I think he had black hair.
 2 Q. Okay. Not dark skin --
 3 A. Darker-colored hair. He wasn't blond.
 4 Q. Okay. All right. And you saw him looking
 5 toward the back of the plane?
 6 A. Yes.
 7 Q. And he was observing what the male flight
 8 attendant was doing?
 9 A. Appeared to be, yes.
 10 Q. Okay. And that was at the time when the male
 11 flight attendant stopped at the row that the two
 12 passengers who -- who got --
 13 A. Yes. He stayed at -- he stayed towards the
 14 front of the plane by the door of the cockpit.
 15 He didn't make his way back to the plane.
 16 Q. Okay. And you saw the -- a male flight
 17 attendant gesture to somebody or motion to
 18 somebody. And was that person in the front or
 19 the back?
 20 A. The flight attendant was stopped at Mr.
 21 DelVecchia's row. He was -- looked like he may
 22 have been communicating with somebody that was
 23 behind me.
 24 Q. Okay.
 25 A. Probably one of the flight attendants at the

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1 rear of the plane.
 2 Q. Okay. And -- and describe for me, please, who
 3 were the flight attendants that you observed at
 4 the rear of the plane at that time.
 5 A. I believe that they were two white females.
 6 Q. Okay. Do you remember hair colors?
 7 A. Both had brown hair, darker-colored hair, that I
 8 recall.
 9 Q. Do you remember ages?
 10 A. Late 30s, maybe 40.
 11 Q. Older -- older flight attendants?
 12 A. They appeared to be.
 13 Q. Do you remember body description, body type?
 14 A. Both -- both were medium build.
 15 Q. Medium build?
 16 A. Mm-hm.
 17 Q. Okay. So you wouldn't describe either one of
 18 those as -- as being a young, 20-something,
 19 slim-build person?
 20 A. Not that I recall, no.
 21 Q. Okay. And were they -- just so I understand,
 22 were those the flight attendants that were in
 23 the rear of the plane for the -- pretty much the
 24 duration of the flight?
 25 A. To the best of my recollection, yes.

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1 A. I can't say whether it was open or closed. I
 2 don't recall.
 3 Q. Okay. But you've flown enough to know that they
 4 -- that they put the curtain -- they secure it
 5 open for takeoff and landing?
 6 A. Yes, they do.
 7 Q. Okay. Do you remember seeing them do that on
 8 this flight?
 9 A. Yes. They had it open when people were boarding
 10 the plane, obviously. And when people were
 11 deplaning, they --
 12 Q. Okay.
 13 A. -- had it open. And they opened it after we
 14 landed. I think when we were landing, they had
 15 it open.
 16 Q. And in the boarding process, then, the -- did
 17 the first-class passengers board first?
 18 A. I believe they did. I mean, they -- they have
 19 different boarding systems now. I know they
 20 call first-class passengers, then military
 21 people, then people who were on the -- in the
 22 gold membership, I guess.
 23 Q. Okay.
 24 A. Then everybody else is group one, two, three, et
 25 cetera.

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1 Q. So -- and, I'm sorry. What I mean that -- by
 2 that is that they were the ones stationed in the
 3 back of the flight, back of the plane?
 4 A. That's correct.
 5 Q. And so by your recollection, then, the -- the
 6 male flight attendant and the fourth flight
 7 attendant would've been stationed up in the
 8 front for the flight?
 9 A. I believe so. I believe the flight had a first-
 10 class section.
 11 Q. Okay. Who was working the first-class section?
 12 A. It was another flight -- another female flight
 13 attendant up there. I don't recall her
 14 demographics and --
 15 Q. All right.
 16 A. -- her description.
 17 Q. You don't remember what -- if she was the -- the
 18 younger, darker-haired girl?
 19 A. Could've been. I'm not sure.
 20 Q. Okay. Did you ever have occasion to go up and
 21 go through the -- the curtain into the first-
 22 class?
 23 A. No.
 24 Q. Okay. Was -- the curtain was -- was closed
 25 during most of the flight, wasn't it?

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1 Q. And I'm just curious, that -- the first-class
 2 passengers going out to Vegas, did they -- did
 3 they appear to be business people, or people on
 4 vacation?
 5 A. Most of the flight, I would say it was probably
 6 people going out there for vacation.
 7 Q. I mean, specifically, when you boarded, did you
 8 board from the front of the plane?
 9 A. Yes, we did.
 10 Q. Okay. And so you would've walked through the
 11 first-class section to get back to your seat?
 12 A. That's correct.
 13 Q. Okay. And so did you take a look at the -- the
 14 people that were in first-class as you went back
 15 there?
 16 A. Yeah. I looked around to see who was on the
 17 plane, you know. It just looked like an average
 18 flight of people, you know, you had couples,
 19 friends, et cetera.
 20 Q. So --
 21 A. I didn't see -- if you're asking was anybody in
 22 business attire, I didn't see anybody in
 23 business attire.
 24 Q. Okay.
 25 A. That I recall.

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1 Q. And in the first-class section, then, there were
 2 two seats on each side?
 3 A. I believe so, yes.
 4 Q. Yeah. And then when you get to the coach
 5 section, then there's three seats on each side?
 6 A. Yes.
 7 Q. Did any of the first-class passengers appear to
 8 have drinks already served to them by the time
 9 you boarded the plane?
 10 A. Not that I recall.
 11 Q. Okay. Did you make eye contact with any of
 12 them?
 13 A. Not that I recall.
 14 Q. Okay. Did you -- did you happen to notice,
 15 like, that the seats were wider in first-class
 16 than they were in coach?
 17 A. Yes. The seats are wider in first-class.
 18 Q. Okay. All right. And you made that observation
 19 on this particular flight?
 20 A. Yes, I did.
 21 Q. Okay. And you remember that?
 22 A. Mm-hm.
 23 Q. You have to say yes or no.
 24 A. Yes. I'm sorry.
 25 Q. That's okay. All right.

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1 A. Yes.
 2 Q. You weren't staring at him, studying him, or any
 3 of that thing?
 4 A. No, I was not.
 5 Q. Okay. You've testified a little bit about
 6 observing whether the flight attendant seemed to
 7 be in any distress. Do you recall that?
 8 A. Yes.
 9 Q. The male flight attendant?
 10 A. Mm-hm.
 11 Q. Again, you have to say yes or --
 12 A. Yes. I'm sorry.
 13 Q. Sorry. And you would not expect, under any
 14 circumstances, a flight attendant to go through
 15 the cabin looking like he or she was in
 16 distress, would you?
 17 A. No.
 18 Q. That would be upsetting to the passengers,
 19 wouldn't it?
 20 A. It would be, yes.
 21 Q. Okay. And so they're probably trained not to do
 22 that?
 23 A. I would assume so, yes.
 24 Q. Okay. You had your cell phone with you?
 25 A. Yes, I did.

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1 So I just want to clarify, if I may,
 2 the -- when you were seated next to the black
 3 youth, did he look at you at any time?
 4 A. No.
 5 Q. Did he say anything to you at any time?
 6 A. No, he did not.
 7 Q. Did you look at him at any time?
 8 A. Just gave -- yeah, I just looked at him a little
 9 -- you know, for a minute or two. He appeared
 10 to be -- you know, he was looking out the
 11 window.
 12 Q. Okay.
 13 A. He had the window open.
 14 Q. So it --
 15 A. I didn't engage in him in any interaction or
 16 conversation or anything like that.
 17 Q. And was it just that once that you looked his
 18 way?
 19 A. Well, I may have looked at him again one other
 20 time, you know, just to see if he's all right
 21 over there. And that was basically it.
 22 Q. So possibly two times. One, possibly two, would
 23 that be accurate?
 24 A. Yeah. That's accurate.
 25 Q. Okay. And then just kind of a glance each time?

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1 Q. And is that a -- is it a smart phone?
 2 A. Yes, it is.
 3 Q. Is it an Apple?
 4 A. Yes, it is.
 5 Q. Okay. And did you have earbuds that were
 6 connected by a wire, or were they Bluetooth?
 7 A. They were wireless.
 8 Q. Wireless Bluetooth?
 9 A. Wireless Bluetooth, yes.
 10 Q. And you testified earlier that you were looking
 11 at the news on your phone. How did you do that
 12 without internet?
 13 A. I was able to download one of the pages. And
 14 this was actually probably prior to them closing
 15 the door --
 16 Q. Oh, okay.
 17 A. -- asking everybody to turn everything on
 18 airplane mode. And if I remember correctly,
 19 Frontier was charging \$13 for internet access.
 20 And I was, like, I'm not doing that. So I had
 21 downloaded a couple of pages and was just
 22 looking through some of the news sites. And
 23 then once we took off, I had some music
 24 preloaded down onto the phone, I was listening
 25 to that. But that was pretty much it with the

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1 phone.
 2 Q. Do you recall what you downloaded, you know,
 3 where it was from, the news pages?
 4 A. Maybe WRAL, New York Post, maybe one of the
 5 sports sites for baseball.
 6 Q. All right. Just -- what is your -- what's your
 7 usual news source?
 8 A. My usual news source?
 9 Q. Yeah.
 10 A. I look at all of them. All of them. CNN, to
 11 Fox News, to Newsmax, to News Break, to -- all
 12 of them.
 13 Q. What's your favorite?
 14 A. None of them.
 15 Q. Which one would you say you watch the most?
 16 A. Major-league baseball.
 17 Q. All right. How about news? Which -- which news
 18 do you watch?
 19 A. One of the locals, whether it's the News &
 20 Observer; Staten Island Advance, where I used to
 21 live; New York Post --
 22 Q. Yeah.
 23 A. -- daily news, occasionally The Times.
 24 Q. You like Tucker Carlson?
 25 A. Does it have to do with anything here?

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1 Q. Let me see just what else I've got here.
 2 Let me go through the observations
 3 when -- this is after the male flight attendant
 4 has asked if you would help. And so you're
 5 alert to what's going on, I assume, at that
 6 point?
 7 A. Yes, my awareness was piqued.
 8 Q. Okay.
 9 A. You can -- if you can use a word like that.
 10 Q. It's a good word and it's hard to spell.
 11 So you saw him stop at the row that
 12 you said was five or six rows ahead of you. And
 13 the first thing you said you saw him do was to
 14 wake up the aisle-seat passenger. Is that
 15 correct?
 16 A. Well, from my vantage point, I couldn't see if
 17 that passenger was asleep. Again, most of the
 18 people around the immediate area had fallen
 19 asleep. It appeared that he leaned over, either
 20 possibly put his hand -- you know, maybe tapped
 21 him on the shoulder, or said something to him.
 22 Again, I couldn't hear. And, again, I didn't
 23 know if that aisle passenger was asleep. He got
 24 up right away. It didn't take him a long time
 25 to get up.

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1 Q. Do you watch it?
 2 A. On occasion. Like I said, I really don't -- you
 3 know, I take it -- I try to get a round-about of
 4 all the news.
 5 Q. Okay.
 6 A. Sometimes he's on. Sometimes he gets turned
 7 off. Sometimes I turn on something else.
 8 Q. Who is the elected president of the United
 9 States as we sit here today?
 10 A. Joseph R. Biden.
 11 Q. Legitimate election?
 12 A. Did he win the election?
 13 Q. Mm-hm.
 14 A. Yes, he did.
 15 Q. Okay.
 16 A. And we can talk for hours about that, but, yes,
 17 he did win the election.
 18 Q. Oh. Do you have opinions about the election?
 19 Do you think it was rigged?
 20 A. No, I do not.
 21 Q. Okay. Did you attend the event at the Capitol
 22 on January 6th?
 23 A. No, I did not.
 24 Q. Do you know anybody who did?
 25 A. No, I do not.

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1 Q. When you saw him get up then, did he have
 2 anything in his hands?
 3 A. No.
 4 Q. Okay. You saw --
 5 A. Not that I recall, no.
 6 Q. Okay. You saw both of his hands with nothing in
 7 them?
 8 A. Yes.
 9 Q. Okay. And now we're moving -- he's -- the
 10 flight attendant is moving to the middle-seat
 11 passenger, and I believe you said you -- you
 12 thought that the flight attendant had braced
 13 himself against the seats in front?
 14 A. As he was leaning over, it looked like he took
 15 maybe his right hand to kind of brace himself a
 16 little bit. He may have had his other hand on
 17 the seat in the aisle in front, so he may have
 18 been leaning over, like -- I'm going to
 19 demonstrate -- like that (indicating) --
 20 Q. Okay.
 21 A. -- possibly.
 22 Q. But you couldn't see everything, though, could
 23 you?
 24 A. I could not see everything from my vantage
 25 point, no.

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1 Q. So -- so some of this you're extrapolating,
 2 perhaps, based on his -- you know, what you
 3 could see of his body?
 4 A. What I could see. Again, you know, there are
 5 five or six rows in front. The lights are
 6 dimmed. It appeared that he -- at least with
 7 one hand that he braced himself as he was
 8 leaning into that aisle --
 9 Q. Okay.
 10 A. -- to engage with the passenger in the middle
 11 seat.
 12 Q. So what you could see of his body was him
 13 shifting his body weight toward the -- the front
 14 of the aircraft?
 15 A. It would be towards the back, because he'd be
 16 leaning towards the back --
 17 Q. Oh.
 18 A. -- if -- if that makes sense.
 19 Q. Yeah. So you saw him leaning -- you saw him use
 20 his right arm to brace himself as he leaned
 21 toward the back of the aircraft?
 22 A. As he was leaning into the aisle -- into the row
 23 of seats.
 24 Q. Okay.
 25 A. Yes.

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1 couldn't see it?
 2 A. No.
 3 Q. Okay. And -- and so with respect to the exact
 4 motions that were made, or any kind of physical
 5 contact, you couldn't have seen it?
 6 A. No.
 7 Q. And with respect to this allegation of
 8 somebody's hand being in somebody's crotch, you
 9 couldn't have seen that either?
 10 A. No, I did not see that.
 11 Q. Okay. Now -- sorry. This is not a 30-second
 12 test. This is me looking at my notes.
 13 You described the black youth as
 14 being, quote, unquote, "slightly disheveled."
 15 Could you elaborate on that, please?
 16 A. To the best of my recollection, his clothes were
 17 -- his clothes appeared to be ill-fitting, like,
 18 they were loose on him. His pants -- he looked
 19 -- I'll use the word "a little dirty." His hair
 20 was unkempt, and he appeared to be thin, like
 21 thin -- thin in build.
 22 Q. Okay. Would you describe the -- the loose
 23 clothes as, like, ghetto style?
 24 A. I would use the word "ghetto style." They were
 25 very loose-fitting clothes.

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1 Q. And so you couldn't see what he was doing with
 2 his other hand, could you?
 3 A. No. His other hand was -- it appeared to be,
 4 like, here (indicating), like he had maybe put
 5 his hand on the chair of the aisle in front.
 6 Q. Okay.
 7 A. That's what it appeared, again. And then he
 8 used his right hand to maybe brace himself, and
 9 then leaned into the aisle and engaged the
 10 passenger that was in the middle seat. That's
 11 what it appeared to me from where I was sitting.
 12 Q. And from where you were sitting, you could only
 13 see a portion of -- of the flight attendant's
 14 body, correct?
 15 A. I was on the aisle seat, so I'm looking down the
 16 aisle. I could see his -- I could see his legs,
 17 I could see his midsection. I could see him,
 18 yeah.
 19 Q. You could see him up through his midsection?
 20 A. Yes, until he leaned in. Until he --
 21 Q. Yeah. Right.
 22 A. -- leaned into the aisle. Then I couldn't see
 23 him completely.
 24 Q. As you previously testified, if somebody is
 25 below normal head height in the aisle, you

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1 Q. Right.
 2 A. They may have had some wear to them. Again, the
 3 lighting wasn't that great. The lights were
 4 still down. Even when they -- they moved him,
 5 they didn't turn the lights up or anything like
 6 that.
 7 Q. Tell me more about his hair, if you would.
 8 A. His hair was a little longer.
 9 Q. Longer than what? I'm sorry.
 10 A. It was a few inches longer, and it was, like --
 11 it looked like it was uncut evenly [sic].
 12 Q. Okay. But I -- I really apologize. When you
 13 say "longer," it's a comparison. And I don't --
 14 A. Oh, I'm sorry. His hair. His hair was maybe 2
 15 or 3 inches in some areas, and it appeared to
 16 be, like, not cut, like, evenly. So it looked a
 17 little unkempt on top --
 18 Q. Okay.
 19 A. -- to me.
 20 Q. Did you notice how it was styled at all? Was it
 21 -- had -- was it straightened hair? Was it
 22 braided hair? Was it --
 23 A. It wasn't braided. It was nappy. I'll use the
 24 word nappy-colored hair -- or "nappy hair."
 25 Q. Nappy hair. Okay. And have you seen other

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1 people with hair you would describe as nappy?
 2 A. Oh, sure, yes.
 3 Q. Where -- where have you seen them?
 4 A. Every day.
 5 Q. Where? I'm sorry.
 6 A. All -- you know, you see -- people have all
 7 different hairstyles these days.
 8 Q. Okay.
 9 A. You know.
 10 Q. And so where do you see nappy hair?
 11 A. Usually on an African American.
 12 Q. Okay. And do you see that a lot in North
 13 Carolina when you're there?
 14 A. Wake Forest is a diverse neighborhood. Yes. So
 15 you see it -- you might see it here. Raleigh.
 16 We're near Raleigh, so, yeah. You see people
 17 with all different kinds of hairstyles.
 18 Q. What about up in New York?
 19 A. Oh, yeah. Absolutely. Mm-hm.
 20 Q. So a lot of nappy-headed people up in New York?
 21 A. Again, you know, it depends on the person who
 22 has the haircut, you know, or the hair style.
 23 Depends on what they want. You know, they can
 24 shave their head, they can have -- let it grow
 25 out, grow it evenly, however.

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1 awareness; well, it could be this, it could be
 2 that, it could be any number of things.
 3 Q. Yeah.
 4 A. Fight, of course, came up. Intoxicated
 5 passenger came up. Intoxicated passengers,
 6 plural, came up. It could've --
 7 Q. So --
 8 A. -- been anything, you know. Again, I didn't
 9 know where it was in the plane, where it wasn't
 10 in the plane. So...
 11 Q. So based on that, when you saw the flight
 12 attendant appear to be awakening the two
 13 subjects of his attention, didn't that surprise
 14 you somewhat?
 15 A. I'm sorry. Could you repeat the question again?
 16 Q. So based on what you were thinking, what was
 17 going through your head that you've just
 18 described, when you saw the male flight
 19 attendant apparently waking up the two subjects
 20 of his attention --
 21 A. Right.
 22 Q. -- wasn't that surprising to you?
 23 A. It appeared to be a little unusual --
 24 Q. Because --
 25 A. -- you know.

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1 Q. When you were a police officer, what was your
 2 beat?
 3 A. Oh, I worked all over the city. I worked in
 4 Bed-Stuy, I worked in Harlem, in Brooklyn,
 5 Bedford-Stuyvesant in Brooklyn, Harlem, Coney
 6 Island, Staten Island --
 7 Q. All right.
 8 A. -- Lower Manhattan, Midtown Manhattan. I worked
 9 -- I worked all over the place.
 10 Q. Did you see nappy-headed people there?
 11 A. Yes.
 12 Q. And in what -- which of those parts did you see
 13 the most of them?
 14 A. Brooklyn, Harlem, Midtown, you know.
 15 Q. Okay. Did you have a lot of people that -- that
 16 you arrested that had nappy head -- headed hair?
 17 A. I can't give you a percentage of that.
 18 Q. Okay. So when the flight attendant came to you
 19 and said there's an issue with two passengers on
 20 the plane, and you thought there might be a
 21 fight going to break out, or -- or some
 22 intoxicated passengers, is that right?
 23 A. Well, when he said, "issue," again, he didn't
 24 elaborate. And then, you know, what's going
 25 through my mind is just, you know, situational

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1 Q. -- sleeping people don't typically cause
 2 problems, do they?
 3 MR. MARTIN: Objection.
 4 A. Not normally, no.
 5 Q. And if they had been left asleep until the plane
 6 landed, there wouldn't have been an issue,
 7 right?
 8 A. That's correct.
 9 Q. Sort of the "sleeping dogs lie" situation,
 10 right?
 11 A. Again, from my vantage point, I couldn't tell if
 12 they were sleeping. You know, there wasn't a
 13 problem in front of -- I mean, I didn't see any
 14 problem in that row on the plane, so I didn't
 15 know where the problem or issue was occurring.
 16 So, yeah.
 17 Q. But this was the only row that the male flight
 18 attendant stopped at after telling you there was
 19 an issue, right?
 20 A. That's correct.
 21 Q. Okay. And this was the only row that he moved
 22 people from?
 23 A. That's correct.
 24 Q. And so in your mind, that suggested very
 25 strongly that these were the people that were

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1 the subject of the issue, right?
 2 A. That's correct.
 3 Q. And you testified that it was apparent that he
 4 was waking them up?
 5 A. It appeared to be, from my vantage point.
 6 That's what it appeared to me.
 7 Q. So the issue that was needing his attention was
 8 two passengers who were asleep?
 9 A. Again, at that time I didn't know what the issue
 10 was. It appeared that he woke up two passengers
 11 to move them --
 12 Q. Okay.
 13 A. -- or to move one of them.
 14 Q. All right. And after the black youth was moved
 15 to row 30, is it your testimony that the male
 16 flight attendant only came back to ask him if he
 17 was okay?
 18 A. He came back once, he may have come back a
 19 second time, to check on him. I remember him
 20 asking him, you know, "Are you okay?" I don't
 21 remember if he responded. I don't remember what
 22 he said. But it appeared that he wasn't in any
 23 kind of distress, to me.
 24 Q. And as you had seen the black youth being
 25 brought to the back by the male flight

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1 A. "Can you come -- you can come with me now."
 2 Q. You're right.
 3 A. Then I got up. And I was behind the two of them
 4 walking to the back of the plane.
 5 Q. When the flight -- the female flight attendants
 6 brought a juice and pretzels, I think you said,
 7 to the black youth, do you remember that?
 8 A. I remember them giving him snack items and a
 9 drink.
 10 Q. Do you mean --
 11 (Unintelligible cross-talk.)
 12 A. If it was a juice or soda, I don't recall. And
 13 if it was pretzels or peanuts, I don't recall
 14 that either. They were handing out pretzels on
 15 the plane.
 16 Q. Did they take any money from him for these?
 17 A. No, they did not.
 18 Q. Did they take any money from you for these?
 19 A. No.
 20 Q. Okay. So they gave them to him for free?
 21 A. Yes.
 22 Q. At the time that the plane landed, and you said
 23 you saw people get up and start to get their
 24 luggage, that was from your vantage point at row
 25 30, correct?

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1 attendant, the black youth was in front of the
 2 male flight attendant, correct?
 3 A. Yes.
 4 Q. And so you couldn't see exactly anything that
 5 the flight attendant was doing behind the black
 6 youth, could you?
 7 A. Well, I was behind him. If you're referring --
 8 if you're saying that he put his hands on him,
 9 no.
 10 Q. You couldn't have seen that?
 11 A. Well, I didn't see him do that, no.
 12 Q. But you can't see through the black youth, can
 13 you?
 14 A. Through -- you mean the flight attendant?
 15 Because he -- the flight attendant was in front
 16 of me. Because he -- the black youth was in
 17 front of him --
 18 Q. Yes.
 19 A. -- then there was the flight attendant.
 20 Q. Yes.
 21 A. And when they passed my row, they said, okay.
 22 He said something --
 23 Q. Oh.
 24 A. -- something --
 25 Q. Okay.

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1 A. Yes.
 2 Q. Okay. And from that point on, everybody stayed
 3 standing in the aisle until they deplaned?
 4 A. That's correct.
 5 Q. Okay. So in order to see somebody who was five
 6 or six rows ahead, you would've had to look
 7 through five or six rows of six passengers each?
 8 A. Well, you know, you had people standing in the
 9 aisle, and you had people seated, you know, so
 10 everybody can't stand in the aisle. So you had
 11 some people standing in the aisle getting their
 12 baggage from above. You know, you could see to
 13 the front of the plane through the rows where
 14 people are still seated and where it had emptied
 15 out.
 16 Q. Okay. So -- but in terms of seeing anything
 17 that somebody did who was standing in the aisle,
 18 again, there would've been a number of people
 19 between you and them if they were at the middle,
 20 say, of the plane?
 21 A. It would've been blocked.
 22 Q. Yeah. Okay.
 23 MR. McKAY: Matt, if I may, could you
 24 share your screen with the -- oh. No. I'm
 25 sorry. We decided that I have the -- the one to

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1 share. Sorry. Okay.
 2 Q. (By Mr. McKay) So I'm showing you now the same
 3 witness statement, only in the PDF version. Can
 4 you see it on your screen, Mr. Higgins?
 5 A. Yes, I can.
 6 Q. Can you read it okay?
 7 A. Mm-hm.
 8 Q. You have to say yes or no.
 9 A. Yes, I do. I can see it.
 10 Q. Okay. And on page 2, is that your signature?
 11 A. That is.
 12 Q. And your "12" in the space that reads "March 12,
 13 2020"?
 14 A. Yes.
 15 Q. Okay. And is everything that is in that
 16 statement correct, to the best of your
 17 knowledge?
 18 A. Yes, it is.
 19 Q. Okay. Because you actually signed it under
 20 penalty of perjury, right?
 21 A. That's correct.
 22 Q. Okay.
 23 MR. McKAY: I'd like that to be
 24 marked, then, as -- well, I don't know -- did we
 25 mark the first one for identification, I?

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1 there?
 2 A. Mm-hm.
 3 Q. And it says (as read): "About ten minutes
 4 later, I observed the male flight attendant
 5 go to the front of the plane and speak with
 6 the other flight attendants."
 7 Was that all three of the female
 8 flight attendants?
 9 A. It may have been one or two.
 10 Q. Okay. Possibly not all three?
 11 A. No.
 12 Q. Okay.
 13 A. He was speaking to a flight attendant in the
 14 front of the plane. It may --
 15 Q. Okay.
 16 A. -- have been one or two.
 17 Q. And then in paragraph 6 you say, the male flight
 18 attendant then walked to the rear of the plane,
 19 and you recall looking forward and seeing the
 20 copilot hanging out in the front galley area of
 21 the plane outside of the cockpit.
 22 At that point in time, you testified
 23 that there were two female flight attendants in
 24 the rear of the plane. Do you remember that?
 25 A. Yes.

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1 MR. MARTIN: Well, I mean, if they're
 2 the -- I'm trying to compare. I mean, if
 3 they're the same, we can just have -- I agree
 4 with you, John. I think I'd rather have the
 5 signed one as --
 6 MR. McKAY: Okay.
 7 MR. MARTIN: -- the exhibit.
 8 MR. McKAY: Okay.
 9 MR. MARTIN: So if they're the same --
 10 and I'm trying to go over it now. I'm fine with
 11 this being the sole one that's the exhibit.
 12 MR. McKAY: Okay. You know, I don't
 13 know whether they're the same. But I know this
 14 is the one he signed. And it's -- it's locked
 15 in a PDF, so there haven't been any changes to
 16 it. So --
 17 MR. MARTIN: Sure. So let's just --
 18 let's have this be the exhibit.
 19 MR. McKAY: Okay. So this will be
 20 Exhibit 1, then, please, Madam Court Reporter.
 21 (WHEREUPON, EXHIBIT NUMBER 1
 22 WAS MARKED FOR IDENTIFICATION.)
 23 Q. (By Mr. McKay) I did want to draw your
 24 attention, Mr. Higgins, to, I believe it's --
 25 okay. 5 and 6, do you see paragraphs 5 and 6

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1 Q. So --
 2 A. I believe there was two -- I believe that there
 3 were two behind --
 4 Q. Do you remember how --
 5 A. -- two in the rear of the plane.
 6 Q. Do you remember --
 7 (Unintelligible cross-talk.)
 8 THE COURT REPORTER: Okay. You guys,
 9 I didn't hear that. Stop.
 10 MR. McKAY: Yeah, let's go back over
 11 it. I did not hear that.
 12 (Reporter clarification.)
 13 THE COURT REPORTER: And are you done
 14 with this exhibit? I'm having a hard time
 15 seeing you.
 16 MR. McKAY: My apologies. Yes, we can
 17 be done with the exhibit.
 18 THE COURT REPORTER: And, remember,
 19 one at a time would help. Thank you.
 20 Q. (By Mr. McKay) Okay. And so, Mr. Higgins, we
 21 just need to go back over. So at the time that
 22 the male flight attendant had walked back from
 23 the -- from the airplane and you saw the copilot
 24 or first officer standing in the front, your
 25 testimony was that there were two flight

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1 attendants who were female who were in the rear
 2 of the plane. Is that correct?
 3 A. That's correct.
 4 Q. Do you remember how they got there from the
 5 front of the plane?
 6 A. They may have -- they had to have walked.
 7 Q. Okay.
 8 A. Again, that period of the flight, I know there
 9 was some sort of trash collection going on.
 10 They were walking around with bags and
 11 collecting trash from passengers. I know that
 12 towards the back of the plane, the galley area
 13 back there is where they dispose of the trash.
 14 Q. Okay.
 15 A. But, you know, again, I recall that there were
 16 two at the rear of the plane, that I recall.
 17 Q. Okay. And those were the two, you said,
 18 possibly in their 40s, medium build?
 19 A. They -- well, they were younger than me, but
 20 they were older than their 20s, okay? They were
 21 in their 30s, maybe a little older than that.
 22 Again --
 23 Q. Okay.
 24 A. -- I don't remember exactly how old either were
 25 -- are, and I didn't ask.

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1 older gentleman was being accused of having his
 2 hand on the younger one?
 3 MR. MARTIN: Object to the form.
 4 You can answer.
 5 A. That, I don't -- that, I don't recall. I don't
 6 recall them saying whose hand was where, and
 7 whose crotch the hand was in at that time.
 8 Q. But your understanding was what? What did
 9 you --
 10 A. My understanding is that someone's hand was
 11 where it wasn't supposed to be.
 12 Q. And what was your understanding as to who was
 13 the someone?
 14 A. It was either -- either individual. Like I
 15 said, they didn't say to me that it was -- the
 16 older male white's hand was somewhere, or the
 17 younger black male's hand was somewhere. That's
 18 -- one of their hands was where -- in a crotch
 19 of the other.
 20 Q. I mean, you're a police officer. What did you
 21 think?
 22 A. It could go either way, sir. You know, it
 23 really can. I mean, I've been -- I've been in
 24 this business a long time, and I'm not going to
 25 sit here and speculate and give you an answer

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1 Q. Okay. You said as you were deplaning, there
 2 were two uniformed officers in the vicinity of
 3 the cockpit, correct?
 4 A. I saw them walk onto the plane. And they --
 5 Q. All right.
 6 A. -- they stayed at the front of the plane as
 7 passengers were deplaning.
 8 Q. And then after you got off, you saw Mr.
 9 DelVecchia talking to four uniformed officers?
 10 A. I believe it was four, and it was right at the
 11 gate.
 12 Q. Okay.
 13 A. Where the ticket agent desk is.
 14 Q. So they were not --
 15 A. Close to it.
 16 Q. And -- and none of them were the same ones that
 17 had gotten onto the plane?
 18 A. That's correct.
 19 Q. Okay. When the female flight attendant told you
 20 before deplaning that somebody's hand was on
 21 somebody's crotch, you knew she was referring to
 22 the passengers in the row that had been moved to
 23 -- one had been moved to the back?
 24 A. Yes.
 25 Q. And -- and you knew that she was saying that the

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1 where, well, I think it was so-and-so's. It
 2 could've been either one.
 3 Q. And which -- which one was blocked by the male
 4 flight attendant?
 5 A. Which one was -- what do you mean?
 6 Q. Blocked in the aisle by the male flight
 7 attendant and when he approached --
 8 A. When he came back? It was Mr. DelVecchia.
 9 Q. Yeah. Didn't that make you --
 10 A. That -- can I go under the assumption it was
 11 him? I don't know. I mean, I -- they were
 12 telling me that someone's hand was in someone's
 13 crotch. They didn't tell me whose. And if
 14 you're asking me, am I going on an assumption
 15 here, I can't do that, because I don't know --
 16 Q. But you --
 17 A. -- that it --
 18 (Unintelligible cross-talk.)
 19 Q. (By Mr. McKay) -- involved one of them, right?
 20 A. I'm assuming it was one of them, yes.
 21 (Reporter clarification.)
 22 Q. (By Mr. McKay) You knew it involved one of
 23 them, right?
 24 A. Yes. I -- I knew that it involved one of them.
 25 Who in particular, I did not know.

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1 Q. So it was either Mr. DelVecchia or it was the
2 black youth?
3 A. Correct.
4 Q. Have you, in your professional or personal
5 capacity, ever referred to a male teenager as
6 mister?
7 A. A male teen -- have I ever referred to a male
8 teenager as mister?
9 Q. Yeah.
10 A. Have I ever called somebody that? Mister?
11 Q. Yeah.
12 A. No. A teenager?
13 Q. Yeah.
14 A. No.
15 Q. You've never referred to a male teenager when
16 speaking to them as mister, and used his
17 surname?
18 A. I can't give you an example of that, no.
19 Q. Okay. Have you, in writing up a report, ever
20 called a young person who is male, mister?
21 A. In a report?
22 Q. Yeah.
23 A. Well, if they're 18 and above, usual report --
24 my report writing style is, when I'm referring
25 to juveniles and -- you know, they change the

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1 Q. Okay.
2 A. -- until Mr. DelVecchia came back and said, "I
3 want to check on my son," or "I want to see how
4 my son is doing," that's when I first heard the
5 word "son."
6 Q. Okay.
7 A. I didn't know they were son -- or father and
8 son. And when I think of him as Mr. DelVecchia
9 on that flight that night, no.
10 Q. Okay.
11 A. If that -- if that answers your question.
12 Q. It does. Thank you. And --
13 A. Okay.
14 Q. -- at the time of the flight, how old was your
15 son, sir?
16 A. My son? Oh, let's see. 2019, he would've been
17 14 years old.
18 Q. Okay. So about the same age?
19 A. Mm-hm. Roughly, I guess. I don't know how old
20 Mr. DelVecchia's son is --
21 Q. Okay.
22 A. -- currently.
23 Q. And --
24 A. And I don't know what his age was back then.
25 Q. I know you don't --

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1 laws all the time. Anybody under the age of 18,
2 I would write out their full name in a report.
3 Anybody over 18, whether they're a victim, a
4 witness, a complainant, and I would refer to
5 them as Mr. and Mrs., Miss, whatever the formal
6 -- sur -- would be for that.
7 Q. So it's your testimony under oath that -- that
8 you would never refer to a person under 18, if
9 they were male, as mister?
10 A. Well, not never. I mean, if you're asking me,
11 did I -- am I referring to Mr. DelVecchia as the
12 young black male, I didn't know that they were
13 father and son.
14 Would I refer -- he appeared to be a
15 young teenager. And what I mean by that -- I'm
16 just going to add to this -- is that he appeared
17 to be maybe 14 years old. Okay. He looked at
18 the time. Now, I saw him on the screen earlier,
19 and teenage boys, and I have one of them, they
20 go through an amazing metamorphosis during their
21 teenage years. And he looks a lot older than
22 what I recall from that day, okay?
23 So did I -- was I thinking of him as
24 Mr. DelVecchia? No. I didn't know that they
25 were father and son --

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1 A. He just appeared to be very young.
2 Q. Okay.
3 MR. McKAY: I'm sorry. We're getting
4 the dart eyes from --
5 THE WITNESS: Waving the hands. I
6 know.
7 MR. McKAY: -- the flight attendant --
8 I'm sorry -- from the court reporter again.
9 Q. (By Mr. McKay) Okay. So you did testify that
10 you thought Mr. DelVecchia's son, or the black
11 youth, was around 14; is that fair?
12 A. I gave you an approximate age of 14.
13 Q. Okay. And your son at the time, 14?
14 A. Yes.
15 Q. And in comparison -- now, first of all, your son
16 is Caucasian?
17 A. That's correct.
18 Q. And Mr. DelVecchia's son was taller than your
19 son?
20 A. At that time, I guess so, you know.
21 Q. Not significantly?
22 A. My -- my -- my son is a late bloomer. And so 14
23 years old, two years ago, I mean, he's a
24 completely different kid from two years ago, you
25 know. And I'm sure Mr. DelVecchia's son has

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1 matured since then, too.
 2 So in terms of height, he was -- my
 3 son would probably be shorter than his.
 4 Q. But I'm saying your observation at the time. So
 5 nothing jumped out at you, like, oh, wow, this
 6 -- this kid's way -- way taller than my son?
 7 A. No. No, not at all.
 8 Q. All right. But you did notice that he was
 9 thinner?
 10 A. It appeared to be. Again, you know, his clothes
 11 were very baggy. You know, in the way they were
 12 fitting on him, they were very loose, so it's
 13 kind of hard to tell sometimes.
 14 Again -- and, also, we also traveled
 15 from Raleigh, North Carolina, in March. I don't
 16 remember the weather that night. It is March,
 17 and you could get cold days here.
 18 Q. Okay.
 19 A. So he was wearing a heavier-looking sweatshirt
 20 or sweater, so that could also skew his personal
 21 build --
 22 Q. Sure. And -- and --
 23 A. -- in long, baggy clothes.
 24 Q. -- long sweatpants? Was it -- was it long
 25 sweatpants?

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1 other detective got written up for it, and we
 2 lost maybe four hours of vacation time apiece.
 3 Q. Okay. Any others?
 4 A. There was a verbal one here in Wake Forest. I
 5 was involved in a motor vehicle accident where
 6 the vehicle was totaled. I was found at fault
 7 for the vehicle accident, which I admitted. And
 8 it was a verbal reprimand.
 9 Q. Okay. Was there alcohol involved in that?
 10 A. No. It was an -- it was on-work accident. On
 11 -- during-work-time-hour accident.
 12 Q. I see. So in a --
 13 A. Wreck, as they say here in North Carolina.
 14 Q. Oh, I'm sorry. I missed that.
 15 A. I used the word "wreck."
 16 (Reporter clarification.)
 17 A. Traffic accident.
 18 Q. Okay.
 19 A. We'll use the word "traffic accident."
 20 MR. McKAY: I'm looking to the court
 21 reporter to see, do we need to fix something?
 22 THE COURT REPORTER: Repeat your
 23 answer for me, sir, please.
 24 A. Traffic accident.
 25 Q. Okay. Let me just check my notes. I may be all

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1 A. Yeah, he was wearing long pants.
 2 Q. Okay. And I think you said they were, like,
 3 sweatpants?
 4 A. It appeared to be sweatpants, yes.
 5 Q. Okay. All right. And how about hairstyle?
 6 Your son versus the black youth.
 7 A. At that time?
 8 Q. Yeah.
 9 A. My son had a shorter haircut. He has hair
 10 similar to mine --
 11 Q. Not nappy?
 12 A. -- so, yeah, difference in hair style.
 13 Q. Yeah. Not -- your son doesn't have nappy hair?
 14 A. No.
 15 Q. Okay. All right. Just a few follow-up
 16 questions, and I have to ask these of everybody.
 17 Have you ever been convicted of a crime?
 18 A. No.
 19 Q. Have you had any reprimands from any of your
 20 employers put in your employee file?
 21 A. One in New York.
 22 Q. Okay. What was that for?
 23 A. Oh. That was -- I was assigned to the narcotics
 24 division 20-plus years ago. Narcotics was found
 25 in a prisoner transport van. So myself and the

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1 finished.
 2 So as far as what you understood to be
 3 the issue that the male flight attendant was
 4 dealing with, you don't have any knowledge about
 5 what procedures were applicable to that type of
 6 situation or that type of issue, do you?
 7 A. No, I don't.
 8 Q. Okay.
 9 MR. McKAY: That's all I have. Thank
 10 you very much, Mr. Higgins.
 11 THE WITNESS: You're welcome, sir.
 12 MR. MARTIN: Nothing further, Mr.
 13 Higgins. I really appreciate your time. Thank
 14 you very much for being with us today.
 15 THE WITNESS: Yeah. Thank you very
 16 much. Take care.
 17 THE VIDEOGRAPHER: Thank you,
 18 everyone. Off the record at 3:37 p m.
 19 THE COURT REPORTER: Mr. Martin, would
 20 you like to order this transcript?
 21 MR. MARTIN: Yes.
 22 THE COURT REPORTER: Etran?
 23 MR. MARTIN: Yes, electronic, with
 24 exhibits.
 25 THE COURT REPORTER: All PDF. You

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1 want your exhibits scanned?

2 MR. MARTIN: Yes, please.

3 THE COURT REPORTER: Mr. McKay, would
4 you like a copy, sir?

5 MR. McKAY: Yes, I would, please, with
6 the exhibit.

7 (WHEREUPON, THE ZOOM REMOTE VIDEOTAPED
8 VIDEOCONFERENCE DEPOSITION
9 WAS CONCLUDED AT 3:37 P.M.)
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1 NORTH CAROLINA

VANCE COUNTY

2 C E R T I F I C A T E

3 I, Marta J. Charles, Court Reporter and Notary

4 Public, the officer before whom the foregoing Zoom
5 videoconference proceeding was conducted, do hereby
6 certify that the witness whose testimony appears in the
7 foregoing proceeding was duly sworn by me remotely via
8 Zoom videoconference (NC license number 000044303041);
9 that the transcript is a full, true and complete
10 transcript of said proceedings to the best of my ability
11 to discern comments via Zoom transmission and thereafter
12 transcribed under my supervision; and that the foregoing
13 pages, inclusive, constitute a true and accurate
14 transcription of the testimony of the witness.

15 I do further certify that I am neither counsel for,
16 related to, nor employed by any of the parties to this
17 action in which this proceeding was conducted, and
18 further, that I am not a relative or employee of any
19 attorney or counsel employed by the parties thereof, nor
20 financially or otherwise interested in the outcome of
21 the action.

22 This the 22nd day of June, 2021.

23 _____
24 Marta J. Charles, Court Reporter and Notary Public
25 #201026500057

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